

ALASKA

Chapter 45.75. WEIGHTS AND MEASURES ACT

Article 01. STANDARD WEIGHTS AND MEASURES

Sec. 45.75.210. Declarations of unit price on random packages.

In addition to the declarations required by AS 45.75.200 , a commodity in package form, which is one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

Sec. 45.75.230. Misrepresentation of price.

When a commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price may not be misrepresented, and the price may not be represented in a manner calculated or tending to mislead or deceive an actual or prospective purchaser. When an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents.

ARIZONA

41-2081. Sale of commodities

A. A person shall not sell or offer or expose for sale less than the quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the person represents when the person furnishes the weight or measure by means of which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

F. Except as otherwise provided in this chapter or by rules adopted pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container.

2. The quantity of contents in terms of weight, measure or count.

3. The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale or sold in any place other than on the premises where packed.

4. The price, except as provided in subsections K and L.

G. In addition to the declarations required by subsection F, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

H. If a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. If a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

I. The packager of a short weighted item offered for sale is liable under this chapter.

J. If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon, except that if the fuel is dispensed by a measure other than whole gallons the seller shall represent the selling price for each unit of such other measure on the individual pump or other dispensing device. If a retail seller engaging in the sale of motor fuel advertises the price of the fuel off the premises, the retail seller shall advertise the price only by the price per gallon.

K. Instead of each package bearing the price as required under subsection F, paragraph 4, the seller may post the price of the package in bold type that measures no less than three-eighths of an inch on the shelf or display at the point of display of the product. If the price on the shelf or display is less than eighteen inches from floor level, the price shall be angled upward from vertical at least fifteen degrees.

L. If the package is offered for sale at a price reduced by a percentage or a fixed amount from a previously offered price, the reduction shall be displayed at the point of display of the package in the manner required by this section.

M. On the request of a consumer, a retail seller shall provide:

1. A means of recording prices such as grease pencils, felt markers, scanners or other similar instruments for recording the price.
2. A written statement of the retail seller's policies regarding errors in pricing.

41-2065. Powers and duties; definition

C. The director may establish standards for the presentation of cost-per-unit information. Nothing in this subsection shall be construed to mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

R20-2-104

I. Price verification.

1. The initial inspection of a retail location for price verification is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
2. The Department shall issue a stop-sale, stop-use tag to a person who fails a price verification reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
 - a. The Department shall impose a \$100 civil penalty per violation on a person who fails a reinspection if the Department finds more than one item at more than its posted price.
 - b. The Department shall impose a \$200 civil penalty per violation on a person who fails a second reinspection. The Department shall increase the per violation civil penalty imposed by \$100 for each subsequent reinspection until the violation is corrected.
3. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Department previously imposed against this person.
4. The Department shall issue a warning to a person who does not have a written price-error policy. The Department shall impose a \$500 civil penalty if the person does not have a written price-error policy upon reinspection.
5. The Department shall issue a warning to a person who does not have a price display visible to the public at a check-out location. The Department shall issue an out-of-service tag if the person does not have a price display visible to the public at a check-out location upon reinspection.

J. Price posting.

1. The initial inspection of a retail location for price posting is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
2. The Department shall issue a stop-sale, stop-use tag to a person who fails a price posting reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
3. The Department shall impose a \$50 civil penalty for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.
4. The Department shall impose a \$100 civil penalty for each inspected lot not priced if a person fails a second reinspection.

5. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Department previously imposed against this person.

R20-2-302. Handbook 130 and Handbook 133

C. A retail seller shall price a commodity at the date and time that it is ordered by a customer.

D. A retail seller who offers, exposes, or advertises a commodity for sale or rent shall post a definite, plain, and conspicuous price on the commodity or adjacent to where the commodity is displayed. If the price of the commodity is by weight, measure, or count, the retailer shall place the price per weight, measure, or count on the commodity or adjacent to where the commodity is displayed. If a retailer offers a commodity for sale or rent at a price reduced by a percentage or a fixed amount from a previously offered price, the retailer shall place the reduction or reduced price on the commodity or adjacent to where the commodity is displayed.

CALIFORNIA

California Business and Professions Code Sections

For sales:

12024.2. (a) It is unlawful for any person, at the time of sale of a commodity, to do any of the following:

(1) Charge an amount greater than the price, or to compute an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity.

(2) Charge an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect.

(b) A violation of this section is a misdemeanor punishable by a fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the overcharge is more than one dollar (\$1).

(c) A violation of this section is an infraction punishable by a fine of not more than one hundred dollars (\$100) when the overcharge is one dollar (\$1) or less.

(d) As used in subdivisions (b) and (c), "overcharge" means the amount by which the charge for a commodity exceeds a price that is advertised, posted, marked, displayed, or quoted to that consumer for that commodity at the time of sale.

(e) Except as provided in subdivision (f), for purposes of this section, when more than one price for the same commodity is advertised, posted, marked, displayed, or quoted, the person offering the commodity for sale shall charge the lowest of those prices.

(f) Pricing may be subject to a condition of sale, such as membership in a retailer-sponsored club, the purchase of a minimum quantity, or the purchase of multiples of the same item, provided that the condition is conspicuously posted in the same location as the price.

12024.6. No person, firm, corporation, or association shall advertise, solicit, or represent by any means, a product for sale or purchase if it is intended to entice a consumer into a transaction different from that originally represented.

For recycling or other sales:

§ 12024.13. WEIGHTS AND MEASURES: BEVERAGE CONTAINERS: REDEMPTION VALUE

(a) A dealer of a beverage in a container subject to Division 12.0 (commencing with Section 14500) of the Public Resources Code shall not charge an amount for a redemption payment for a beverage container that is greater than the amount set forth in Section 14560 of the Public Resources Code.

(b) For purposes of this section, "dealer" has the same meaning as in Section 14510 of the Public Resources Code.

(c) A violation of this section is an infraction punishable by a fine of not more than one hundred dollars (\$100) when the overcharge is (\$1) or less.

(d) In the written report required pursuant to Section 12209, a sealer shall separately report any action taken to enforce this section that results in a penalty being levied for a violation of this section.

(e) Nothing in this section is intended to limit or alter the authority of the Department of Resources Recycling and Recovery under the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500) of the public Resources Code).

12512. When the sale of any commodity is based upon a quantity representation either furnished by the purchaser or obtained through the use of equipment supplied by him, the purchaser shall in no case buy the

commodity according to any quantity which is less than the true quantity. Violation of this section is a misdemeanor.

California Civil Code Sections

Part 8 - Automatic Checkout System

7100. (a) Every retail grocery store or grocery department within a general retail merchandise store which uses a point-of-sale system shall cause to have a clearly readable price indicated on 85 percent of the total number of packaged consumer commodities offered for sale which are not exempt pursuant to subdivision (b). The management of any such retail grocery store or grocery department shall determine the number of consumer commodities normally offered for sale on a daily basis, shall determine the consumer commodities to be exempted pursuant to this subdivision, and shall maintain a list of those consumer commodities exempt pursuant to this subdivision. The list shall be made available to a designated representative of the appropriate local union, the members of which are responsible for item pricing, in those stores or departments that have collective bargaining agreements, seven days prior to an item or items being exempted pursuant to this subdivision. In addition, the list shall be available and posted in a prominent place in the store seven days prior to an item or items being exempted pursuant to this subdivision.

(b) The provisions of this section shall not apply to any of the following:

(1) Any consumer commodity which was not generally item-priced on January 1, 1977, as determined by the Department of Food and Agriculture pursuant to subdivision (c) of Section 12604.5 of the Business and Professions Code, as in effect July 8, 1977.

(2) Any unpackaged fresh food produce, or to consumer commodities which are under three cubic inches in size, weigh less than three ounces, and are priced under forty cents (\$0.40).

(3) Any consumer commodity offered as a sale item or as a special.

(4) Any business which has as its only regular employees the owner thereof, or the parent, spouse, or child of such owner, or, in addition thereto, not more than two other regular employees.

(5) Identical items within a multi-item package.

(6) Items sold through a vending machine.

(c) For the purposes of this section:

(1) "Point-of-sale system" means any computer or electronic system used by a retail establishment such as, but not limited to, Universal Product Code scanners, price lookup codes, or an electronic price lookup system as a means for determining the price of the item being purchased by a consumer.

(2) "Consumer commodity" includes:

(A) Food, including all material whether solid, liquid, or mixed, and whether simple or compound, which is used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances or ingredients added to any such material for any purpose. This definition shall not apply to individual packages of cigarettes or individual cigars.

(B) Napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, and disposable plates and cups.

(C) Detergents, soaps, and other cleaning agents.

(D) Pharmaceuticals, including nonprescription drugs, bandages, female hygiene products, and toiletries.

(3) "Grocery department" means an area within a general retail merchandise store which is engaged primarily in the retail sale of packaged food, rather than food prepared for immediate consumption on or off the premises.

(4) "Grocery store" means a store engaged primarily in the retail sale of packaged food, rather than food prepared for consumption on the premises.

(5) "Sale item or special" means any consumer commodity offered in good faith for a period of 14 days or less, on sale at a price below the normal price that item is usually sold for in that store. The Department

of Food and Agriculture shall determine the normal length of a sale held for consumer commodities generally item priced on January 1, 1977, in stores regulated pursuant to this chapter, and that period shall be used for the purposes of this subdivision. The department's determination as to the normal length of a sale shall be binding for the purposes of this section, but each such determination shall not exceed seven days.

7101. (a) The intentional violation of Section 7100 is punishable by a civil penalty of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).

(b) Failure to have a clearly readable price indicated on 12 units of the same item required to be item-priced of the same commodity shall constitute a presumption of intent to violate Section 7100.

(c) Every additional 12 units of the same item required to be item-priced that fail to have a price indicated on them shall constitute a presumption of intent to violate Section 7100.

(d) Each day that a violation continues shall also constitute a separate violation after notification thereof to the manager or assistant manager of the retail grocery store or the grocery department of the general retail merchandise store and shall constitute a presumption of intent to violate Section 7100.

(e) Notwithstanding any other provision of law, any person may bring an action to enjoin a violation of Section 7100.

7102. Any person, firm, corporation, or association who violates Sections 7100 and 7101 shall be liable to any person injured for any losses and expenses thereby incurred, and for the sum of fifty dollars (\$50) in addition thereto. The remedy set forth herein is applicable only to actions brought in the name of, and on behalf of, a single plaintiff and shall not be applicable in multiple plaintiff or class actions.

7103. Improper pricing on the shelf or on the item due to unintentional error shall not constitute a violation of this division.

7104. The remedies set forth in Sections 7101 and 7102 are the exclusive remedies available to any person, state or local agency or law enforcement official.

7105. This part shall be known and may be cited as the Rosenthal-Roberti Item Pricing Act.

7106. It is the intention of the Legislature that this part shall occupy the field with regard to item pricing and shall preempt all local ordinances, rules, or regulations concerning item pricing.

California Business and Professions Code Sections

The "automated checkout systems" law is attached and only applies to the counties that have adopted an ordinance to charge fees at locations subject to inspection. Some of those counties include all retail establishments but others only include large retail outlets with automated systems.

13350. (a) The board of supervisors of any county or city and county that has adopted or that adopts an ordinance for the purposes of determining the pricing accuracy of a retail establishment using a point-of-sale (POS) system, shall base the initial standard inspection of the POS system on the following criteria:

(1) The initial standard inspection shall be performed by collecting a random sample of items that shall include a maximum of 50 percent sale items from either:

(i) One department of a retail store.

(ii) Multiple areas of a retail store.

(iii) The entire store.

(2) The initial standard inspection shall be performed by testing a minimum random sample of 10 items for a retail establishment with three or fewer POS checkout registers.

(3) The initial standard inspection shall be performed by testing a minimum random sample of 25 items for a retail establishment with 4 to 9 POS checkout registers.

(4) The initial standard inspection shall be performed by testing a minimum random sample of 50 items for retail establishments with 10 or more POS checkout registers.

(5) The sealer shall verify that the lowest advertised, posted, marked, displayed, or quoted price is the same as the price displayed or computed by the point-of-sale equipment or printed receipt. Only items computed at a higher price than the lowest advertised, posted, marked, displayed, or quoted price shall be considered not in compliance.

(6) The minimum random sample size shall not apply to inspections of any establishment at which fewer items than the number specified as the minimum sample size are marked or displayed with a posted or advertised item price.

(7) The maximum percentage of sale item restriction in paragraph (1) shall not apply to inspections of any establishment at which a marketing or promotional practice does not enable the sampling of the minimum required percentage of nonsale items, such as "Everything In Store 50 percent Off" or the like.

(8) The compliance rate percentage of a retail establishment shall be determined by dividing the number of items in compliance by the sample size multiplied by 100.

(b) Enforcement action may be taken for any item not in compliance.

(c) The sealer may reinspect any retail facility that has a compliance rate of less than 98 percent.

(d) The board of supervisors, by ordinance, may charge a point-of-sale system inspection fee or an annual registration fee, not to exceed the county's total cost of inspecting or testing the accuracy of prices accessed or generated by the system pursuant to this section.

(e) The board of supervisors, by ordinance, may charge a reinspection fee for reinspections of a retail establishment that fails the prior inspection, not to exceed the county's total cost of reinspecting or testing the accuracy of prices accessed or generated by the system pursuant to this section.

13351. For purposes of this chapter, "random sample" of items means that the selection process shall be modeled after the National Institute of Standards and Technology Handbook 130, 2005 Edition (HB 130) - Examination Procedures for Price Verification, randomized sample collection; stratified sample collection.

13352. For purposes of this chapter, "point-of-sale" system means any computer or electronic system used by a retail establishment such as, but not limited to, Universal Product **Code** scanners, price lookup codes, or an electronic price lookup system as a means for determining the price of the item being purchased by a consumer.

13353. For the purposes of this chapter, "sale items" include any item that is represented or advertised to be lower in price from that which the item is normally offered for sale. A "sale item" includes but is not limited to, an item that is represented as "promotional," "limited time offer," a "manager special," "discount taken at register," or displayed with any other advertisements that offers or suggests a reduced price.

13354. For purposes of this chapter, "area" means an "entire store," a "department," "grouping of shelves or displays," or other "section" of a store as defined by the sealer from which samples are selected for verification. "Nonpublic" areas of a store, such as the area in a pharmacy in which controlled drugs are kept or product storage rooms, shall not be included.

13355. For the purposes of this chapter, "initial standard inspection" means an inspection made at the customary time interval used by an enforcement agency.

13356. All other inspections of the point-of-sale system are considered "special inspections," including, but not limited to, inspections pertaining to investigations, consumer complaints, complaints from competing businesses or a reinspection of a retail establishment at which one or more price accuracy violations have occurred within the previous six months.

COLORADO

“Law is currently under sunset review. We are proposing significant changes”.

LAW

35-14-111 - Misrepresentation of price.

No person shall misrepresent the price of any commodity or service sold or offered, exposed, or advertised for sale by weight, measure, or count nor represent the price in any manner calculated or tending to mislead or in any way deceive a person.

35-14-117 - Unit pricing - application - inch pound or metric.

(1) Except for random-weight packages unit priced in accordance with rules and regulations and uniform weight packages of cheese and cheese products unit priced in the same manner and by the same type of equipment as random-weight packages, any retail establishment providing unit price information in addition to the total price for any commodity shall also provide the unit price information for all such commodities as required by rules and regulations.

(2) Either metric or inch pound unit prices may be used for commodities marked in either system; except that, when unit price is changed to metric for any given type of commodity, unit pricing for all sources or suppliers of that commodity should change to metric.

CONNECTICUT

Statutes for unit and item pricing.

Sec. 21a-73. (Formerly Sec. 19-210c). Unit pricing: Definitions. As used in sections 21a-73 to 21a-77, inclusive:

(a) "Commissioner" means Commissioner of Consumer Protection;

(b) "Consumer commodity" means any food, drug, device, cosmetic or other article, product, or commodity of any other kind or class, except drugs sold only by prescription, which is customarily produced for sale to retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered in or around the household, and which usually is consumed or expended in the course of such consumption or use;

(c) "Unit price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of weight, measure or count, computed to the nearest whole cent or fraction thereof;

(d) "Unit of a consumer commodity" means any consumer commodity in packaged form upon which is affixed a statement indicating the quantity of such commodity contained in such package.

(1971, P.A. 856, S. 1; P.A. 88-66, S. 1; June 30 Sp. Sess. P.A. 03-6, S. 146(c); P.A. 04-189, S. 1.)

History: Sec. 19-210c transferred to Sec. 21a-73 in 1983; P.A. 88-66 defined "unit of a consumer commodity"; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Consumer Protection with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004.

Sec. 21a-74. (Formerly Sec. 19-210d). Seller to disclose unit and total price of consumer commodity. (a) Any person who sells or offers or exposes for sale at retail any consumer commodity designated by the commissioner, in accordance with the provisions of section 21a-75, shall disclose to the consumer the unit and total price of such commodity as provided in subsection (b) of this section unless exempted pursuant to section 21a-76.

(b) Persons subject to the requirements of subsection (a) of this section shall disclose the unit price and total price to consumers by one or more of the following means: (1) By attachment of a stamp, tag or label directly adjacent to the consumer commodity, on the shelf on which the commodity is displayed, or by stamping or affixing the price information on each unit of a consumer commodity; or (2) if the consumer commodity is so located that it is not conspicuously visible to the consumer, or is so located that the price information if displayed in accordance with subdivision (1) would not be conspicuously visible to the consumer, by a sign or list bearing such price information, conspicuously placed near the point of procurement; or (3) by such other means as the commissioner may by regulation provide.

(c) Any printed advertisement to aid, promote or assist, directly or indirectly, in the sale of any consumer commodity subject to the provisions of subsection (a) of this section, which printed advertisement compares or otherwise displays different sizes or measures of the same such commodity, shall not state the total price of such commodity unless such advertisement also states the unit price of such commodity.

(1971, P.A. 856, S. 2-4; P.A. 88-66, S. 2; P.A. 97-78, S. 1, 3.)

History: Sec. 19-210d transferred to Sec. 21a-74 in 1983; P.A. 88-66 changed the reference in Subsec. (b) from "the commodity itself" to "each unit of a consumer commodity"; P.A. 97-78 amended Subsec. (c) re printed advertisements which compare or display different sizes or measures of the same commodity, effective May 27, 1997.

Sec. 21a-75. (Formerly Sec. 19-210e). Regulations. Hearings. Civil penalties for noncompliance.

(a) The commissioner shall adopt regulations necessary to carry out the purposes of sections 21a-73 to 21a-77, inclusive, for the best interests of consumers and, in addition, shall by regulation: (1) Designate those consumer commodities as to which display of the unit price shall be required, upon a determination that such display will be in the best interests of consumers; (2) designate the unit of weight, measure, or count in terms of which the unit price of each consumer commodity designated under subdivision (1) shall be expressed, provided that no designated unit shall be such as to require persons subject to the provisions of subsection (a) of section 21a-74 to measure any consumer commodity solely for the purpose of complying with said section; (3) designate whether the unit price of each consumer commodity designated under subdivision (1) shall be expressed to the nearest whole cent or fraction thereof; (4) prescribe the means for the disclosure of price information upon determination that such means would be more effective than those prescribed in subdivision (1) or (2) of subsection (b) of said section 21a-74.

(b) The commissioner shall adopt regulations pursuant to the provisions of chapter 54.

(c) The commissioner shall hold a hearing in accordance with the provisions of chapter 54 whenever he has probable cause to believe, or whenever twenty-five or more citizens state in writing to him their belief, that a person has violated any of the provisions of sections 21a-73 to 21a-76, inclusive.

(d) Upon a finding that a person has violated any of the provisions of sections 21a-73 to 21a-76, inclusive, the commissioner may issue a warning citation or may impose a civil penalty of not more than one hundred dollars for the first offense and not more than five hundred dollars for each subsequent offense. Each violation with respect to all units of a particular consumer commodity on any single day shall be deemed a single offense.

(1971, P.A. 856, S. 5; P.A. 74-183, S. 226, 291; P.A. 76-436, S. 195, 681; P.A. 88-66, S. 3.)

History: P.A. 74-183 replaced circuit court with court of common pleas in Subsec. (c), effective December 31, 1974; P.A. 76-436 replaced "promulgate" with "adopt" in Subsec. (a), deleted reference to promulgating regulations and replaced "sections 4-41 to 4-50, inclusive" with "chapter 54" in Subsec. (b) and replaced "prosecuting attorney" with "assistant state's attorney" and "court of common pleas" with "superior court" and deleted "in the proper courts" in Subsec. (c), effective July 1, 1978; Sec. 19-210e transferred to Sec. 21a-75 in 1983; P.A. 88-66 provided that hearings would be held in accordance with chapter 54, deleting prior provisions re hearing procedures and added Subsec. (d) concerning the issuance of a warning or imposition of a civil penalty and designating each violation with respect to all units of a commodity on a single day as a single offense.

Sec. 21a-76. (Formerly Sec. 19-210f). Exceptions. The provisions of sections 21a-73 to 21a-77, inclusive, shall not apply to any owner-operated single retail store or to any store occupying a total retail sales area of not more than three thousand five hundred square feet.

(1971, P.A. 856, S. 6; P.A. 84-250, S. 1, 2.)

History: Sec. 19-210f transferred to Sec. 21a-76 in 1983; P.A. 84-250 excluded stores occupying a retail sales area of not more than 3,500 square feet from the requirements of unit pricing.

Sec. 21a-77. (Formerly Sec. 19-210g). Criminal penalty. Any person who violates any provision of sections 21a-73 to 21a-77, inclusive, shall be fined not more than two hundred dollars for the first offense and not more than one thousand dollars for each subsequent offense. Each violation with respect to all units of a particular consumer commodity on any single day shall be deemed a single offense.

(1971, P.A. 856, S. 7; P.A. 88-66, S. 4; P.A. 07-217, S. 95.)

History: Sec. 19-210g transferred to Sec. 21a-77 in 1983; P.A. 88-66 increased the maximum penalty from \$100 to \$200 for the first offense and from \$500 to \$1,000 for subsequent offenses; P.A. 07-217 made a technical change, effective July 12, 2007.

Sec. 21a-78. (Formerly Sec. 19-210i). Shelf life pricing; definition; penalty. Section 21a-78 is repealed, effective October 1, 1999.

(P.A. 75-601; P.A. 88-56; 88-364, S. 115, 123; P.A. 99-23, S. 2.)

Sec. 21a-78a. Transferred to Chapter 743h, Sec. 42-230.

Sec. 21a-78b. Suspension of application. Monitoring by department. Section 21a-78b is repealed, effective October 1, 1999.

(P.A. 96-220, S. 6, 7; P.A. 97-78, S. 2, 3; P.A. 99-23, S. 2.)

Sec. 21a-79. (Formerly Sec. 19-210j). Universal product coding. Electronic shelf labeling. Electronic pricing. Marking of retail price. Exemptions. Electronic price higher than posted price for consumer commodity. Regulations. Penalties. (a) For the purposes of this section (1) "consumer commodity" and "unit of a consumer commodity" have the same meaning as in section 21a-73, except that consumer commodity does not include alcoholic liquor, as defined in subdivision (3) of section 30-1, or a carbonated soft drink container; (2) "carbonated soft drink container" means an individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing a carbonated liquid soft drink sold separately or in packages of not more than twenty-four individual containers; (3) "universal product coding" means any system of coding that entails electronic pricing; (4) an electronic shelf labeling system is an electronic system that utilizes an electronic device attached to the shelf or at any other point of sale, immediately below or above the item, that conspicuously and clearly displays to the consumer the unit price and the price of the consumer commodity. Such electronic shelf labeling system reads the exact same data as the electronic cash register scanning system; and (5) an electronic pricing system is a system that utilizes the universal product coding bar code by means of a scanner in combination with the cash register to record and total a customer's purchases.

(b) (1) (A) Any person, firm, partnership, association or corporation that utilizes universal product coding in totaling a retail customer's purchases shall mark or cause to be marked each consumer commodity that bears a Universal Product Code with its retail price.

(B) Any person, firm, partnership, association or corporation that utilizes an electronic pricing system in totaling a retail consumer's purchases shall provide each consumer with an item-by-item digital display, plainly visible to the consumer as each universal pricing code is scanned, of the price of each consumer commodity or carbonated soft drink container, or both, selected for purchase by such consumer prior to accepting payment from such consumer for such commodity or container. The provisions of this subparagraph do not apply to any person, firm, partnership, association or corporation operating in a retail

sales area of not more than ten thousand square feet.

(2) The provisions of subparagraph (A) of subdivision (1) of this subsection shall not apply if: (A) The Commissioner of Consumer Protection, by regulation, allows for the utilization of electronic shelf labeling systems; (B) a retailer is granted approval to utilize an electronic shelf labeling system by the commissioner; (C) the retailer has demonstrated to the satisfaction of the commissioner that such electronic shelf labeling system is supported by an electronic pricing system that utilizes universal product coding in totaling a retail customer's purchases; and (D) the retailer has received approval for such an electronic pricing system by the commissioner.

(3) The provisions of subparagraph (A) of subdivision (1) of this subsection shall not apply if: (A) The retailer has met the conditions of subdivision (2) of this subsection; and (B) the retailer has received permission by the commissioner to suspend implementation of the electronic pricing system for a period not to exceed thirty days in order to allow the retailer or an agent acting on behalf of the retailer to reset, remodel, repair or otherwise modify such system at the retail establishment.

(4) The provisions of subparagraph (A) of subdivision (1) of this subsection shall not apply if: (A) The retailer applies and is approved for an exemption by the Commissioner of Consumer Protection, (B) the retailer demonstrates to the satisfaction of the commissioner that the retailer has achieved price scanner accuracy of at least ninety-eight per cent, as determined by the latest version of the National Institute of Standards and Technology Handbook 130, "Examination Procedures for Price Verification, as adopted by The National Conference on Weights and Measures", (C) the retailer pays an application fee, to be used to offset annual inspection costs, of three hundred fifteen dollars if the premises consists of less than twenty thousand square feet of retail space and six hundred twenty-five dollars if the premises consists of twenty thousand square feet or more of retail space, (D) the retailer makes available a consumer price test scanner approved by the commissioner and located prominently in an easily accessible location for each twelve thousand square feet of retail floor space, or fraction thereof, and (E) price accuracy inspections resulting in less than ninety-eight per cent price scanner accuracy are reinspected without penalty and the retailer pays a two-hundred-fifty-dollar reinspection fee.

(5) Notwithstanding any provision of this subsection, consumer commodities that are offered for sale and that are located on an end cap display within the retail sales area are not subject to the requirements specified under this subsection, provided any information that would have been available to a consumer pursuant to this section is clearly and conspicuously posted on or adjacent to such end cap. For purposes of this subdivision, "end cap display" means the location in the retail sales area that is at the immediate end of an aisle.

(6) Consumer commodities that are advertised in a publicly circulated printed form as being offered for sale at a reduced price for a minimum seven-day period need not be individually marked at such reduced retail price, provided such consumer commodities are individually marked with their regular retail price and a conspicuous sign is adjacent to such consumer commodities, which sign discloses: (A) The reduced retail price and its unit price; and (B) a statement that the item will be electronically priced at the reduced price by the cashier.

(7) If a consumer commodity is offered for sale and its electronic price is higher than the posted price, then one item of such consumer commodity, up to a value of twenty dollars, shall be given to the consumer at no cost. A conspicuous sign shall adequately disclose to the consumer that in the event the electronic price is higher than the posted retail price, one item of such consumer commodity shall be given to the customer at no cost.

(c) (1) The Commissioner of Consumer Protection may adopt regulations, in accordance with the provisions of chapter 54, concerning the marking of prices and use of universal product coding on each unit of a consumer commodity.

(2) The Commissioner of Consumer Protection may adopt regulations, in accordance with the provisions of chapter 54, designating not more than twelve consumer commodities that need not be marked

in accordance with subdivision (1) of subsection (b) of this section and specifying the method of providing adequate disclosure to consumers to insure that the electronic pricing of the designated consumer commodities is accurate. The commissioner may establish by regulation methods to protect consumers against electronic pricing errors of such designated consumer commodities and to insure that the electronic prices of such designated consumer commodities are accurate. Among the methods that the commissioner may consider are conditions similar to those set forth in subdivision (5) of subsection (b) of this section.

(d) The Commissioner of Consumer Protection, after providing notice and conducting a hearing in accordance with the provisions of chapter 54, may issue a warning citation or impose a civil penalty of not more than one hundred dollars for the first offense and not more than five hundred dollars for each subsequent offense on any person, firm, partnership, association or corporation that violates any provision of subsection (b) of this section or any regulation adopted pursuant to subsection (c) of this section. Any person, firm, partnership, association or corporation that violates any provision of subsection (b) of this section or any regulation adopted pursuant to subsection (c) of this section shall be fined not more than two hundred dollars for the first offense and not more than one thousand dollars for each subsequent offense. Each violation with respect to all units of a particular consumer commodity on any single day shall be deemed a single offense.

(P.A. 75-391, S. 1-4; P.A. 88-66, S. 5; P.A. 92-86; P.A. 95-342; P.A. 01-73, S. 1, 2; P.A. 02-43, S. 1; 02-82, S. 3; June 30 Sp. Sess. P.A. 03-6, S. 146(c); P.A. 04-189, S. 1; P.A. 05-86, S. 1; P.A. 06-66, S. 1; 06-196, S. 152; June Sp. Sess. P.A. 09-3, S. 283.)

History: Sec. 19-210j transferred to Sec. 21a-79 in 1983; P.A. 88-66 authorized issuance of warning citation and imposition of civil penalty; P.A. 92-86 amended Subsec. (a) by specifying that the definition of "consumer commodity" does not include alcoholic liquor as defined in Subdiv. (3) of Sec. 30-1 and by adding definitions of an "electronic shelf labeling system" and "electronic pricing system", amended Subsec. (b) to insert Subdiv. indicators, adding new Subdiv. (2) which detailed when the provisions of Subdiv. (1) would not apply, new Subdiv. (3) re commodities on sale at reduced prices and new Subdiv. (4), which provided that a commodity would be given to a customer upon demand at no cost if, at checkout, the electronic price was higher than the reduced retail price and amended Subsec. (c) to insert Subdiv. indicators, making technical change in Subdiv. (1) and adding provisions designated as Subdiv. (2) re adoption of regulations; P.A. 95-342 amended Subsec. (a) to exempt soft drink containers from the definition of "consumer commodity" and to add definition of "carbonated soft drink container" as Subdiv. (2), renumbering existing Subdivs. as necessary; P.A. 01-73 amended Subsec. (b) by designating existing Subdiv. (1) as Subdiv. (1)(A) and adding new Subdiv. (1)(B) re digital display and made conforming and technical changes throughout, effective October 1, 2002; P.A. 02-43 amended Subsec. (c)(2) by increasing from 10 to 12 the number of consumer commodities that need not be marked in accordance with Subsec. (b)(1); P.A. 02-82 amended Subsec. (b) by adding Subdiv. (2)(D) requiring retailer to receive approval for electronic pricing system by commissioner, by adding new Subdiv. (3) providing that price marking requirements of Subdiv. (1)(A) do not apply if retailer has met certain conditions, by renumbering existing Subdivs. (3) and (4) as Subdivs. (4) and (5) and by making technical changes in Subdivs. (1), (2) and (5); June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Consumer Protection with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 05-86 amended Subsec. (b) to add new Subdiv. (4) re commodities offered for sale on end cap displays and redesignate existing Subdivs. (4) and (5) as Subdivs. (5) and (6), respectively, and made technical changes in Subsec. (c), effective June 2, 2005; P.A. 06-66 amended Subsec. (b) by adding new Subdiv. (4) re exemptions, redesignating existing Subdivs. (4) to (6) as Subdivs. (5) to (7), respectively, removing provisions re electronic shelf labeling system in newly designated Subdiv. (5) and, in newly designated Subdiv. (7), removing reduced price provisions, adding posted price provisions, adding twenty-dollar value limit, modifying consumer notice to use term "posted" retail price and deleting "upon demand"; P.A. 06-196 made a technical change in Subsec. (d), effective June 7, 2006; June Sp. Sess. P.A. 09-3 amended Subsec. (b)(4) to increase fees.

Sec. 21a-79a. Pilot program re test audit of alternative electronic retail pricing systems. (a)

Notwithstanding the provisions of section 21a-79 and any regulations adopted under said section, the Commissioner of Consumer Protection may, within available appropriations, establish a pilot program for the test audit of alternative electronic retail pricing systems that maintain and display the item and unit price of consumer commodities, as defined in subsection (a) of section 21a-79. The commissioner shall select one or more retailers to participate in any such pilot program in accordance with the following requirements: A retailer participating in the pilot program shall conduct business from one or more stores in this state on October 1, 2001. The retailer shall submit to the commissioner a written request to participate in the pilot program and pay all costs associated with a test audit under such pilot program. The retailer or retailers shall implement a system to be test audited that, at a minimum, (1) maintains the retailer's current item prices and unit prices for each product in an electronic database, (2) prints shelf tags that meet all applicable requirements for item pricing and unit pricing in effect on October 1, 2001, and (3) operates in such a way that (A) price decreases are immediately transmitted directly to the point of sale, and (B) price increases are transmitted to the point of sale only after such shelf tags are posted and such posting has been verified in the electronic database.

(b) The commissioner may designate a private auditing organization to conduct any such test audit and shall charge the cost of such test audit to the selected retailer or retailers. No such test audit shall be conducted for a period exceeding twelve months. During the test audit, such store shall be exempt from the provisions of subdivision (1) of subsection (b) of section 21a-79 and any applicable regulations adopted under said section.

(c) The commissioner shall report the results of each test audit conducted under any such pilot program and any recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to consumer protection not later than three months after the completion of such test audit. Such report shall include a copy of any audit report prepared by the commissioner or any such private auditing organization.

(P.A. 98-211, S. 3; P.A. 01-43; 01-195, S. 172, 181; June 30 Sp. Sess. P.A. 03-6, S. 146(c); P.A. 04-189, S. 1.)

History: P.A. 01-43 amended Subsec. (a) by changing "October 1, 1998," to "October 1, 2001," renumbering Subdivs. (3)(A) to (3)(C)(ii) as Subdivs. (1) to (3)(B) and making technical changes and amended Subsec. (b) by expanding applicability to multiple retailers and extending audit period from 6 months to 12 months; P.A. 01-195 made a technical change in Subsec. (a), effective July 11, 2001; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Consumer Protection with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004.

UNIVERSAL PRODUCT CODING/EXEMPTIONS FROM MARKING OF RETAIL PRICE

Sec. 21a-79-1. Definitions

For purposes of Sections 21a-79-1 to 21a-79-7, inclusive, of these regulations, the following terms shall have the meanings indicated:

(a) "Retail Price" is the price marked on the consumer commodity at which said consumer commodity is to be sold to the customer;

(b) "Retailer" means any person, firm, partnership, association or corporation which utilizes universal product coding in totaling a retail customer's purchase; and
(c) "Exempted Consumer Commodity" means a consumer commodity which has been exempted from the requirement that each item of such consumer commodity be marked with its retail price.
(Amended October 25, 1993.)

Sec. 21a-79-2. Unmarked consumer commodities

Any consumer commodity not properly marked with the retail price or for which the retailer has not been granted an item price exemption in accordance with section 21a-79 (b) (4) of the Connecticut General Statutes, shall be removed from sale until properly marked.
(Added effective May 23, 1988; Amended effective October 1, 2007.)

Sec. 21a-79-3. Improperly marked or scanned consumer commodities

(a) If the retail price posted or marked on the consumer commodity is higher than that displayed by the scanner, the lower price will prevail.
(b) If the retail price posted or marked on the consumer commodity is lower than that displayed by the scanner, then one item of such consumer commodity, up to a value of twenty dollars, shall be given to the consumer at no cost.
(Added effective May 23, 1988; Amended effective October 1, 2007.)

Sec. 21a-79-4. Test scanning

(a) Any person, firm, association or corporation which utilizes universal product coding in totaling a retail customer's purchases shall make available to the customer a scanner, capable of reading a universal product code bar, so as to allow the consumer an opportunity to personally identify the price of any item offered for sale. The specific scanner must be clearly identified as available for consumer use and may be one of several such devices utilized by consumers to actually purchase items from the retailer. The use of the consumer designated scanner may be limited during times of maximum register use, and the scanner designated for consumer use shall be the last scanner placed into service to register sales of items when a retailer determines that all scanning check-out registers must be in use.
(b) If an item price exemption has been granted to a retailer in accordance with section 21a-79 (b) (4) of the Connecticut General Statutes, the retailer shall also make available a consumer price test scanner, approved by the commissioner and located prominently in an easily accessible location for each twelve thousand square feet of retail floor space, or fraction thereof.
(Added effective May 23, 1988; Amended effective October 1, 2007.)

UNIVERSAL PRODUCT CODING/EXEMPTIONS FROM MARKING OF RETAIL PRICE

Sec. 21a-79-5. Exempted consumer commodities

The following consumer commodities need not be marked with their retail prices:

- (1) canned cat food;
 - (2) milk;
 - (3) powdered gelatin and pudding dessert mixes;
 - (4) canned tuna fish;
 - (5) fresh shell eggs;
 - (6) ice cream in one-half gallon, quart, and pint sizes;
 - (7) frozen concentrated juices and fruit drinks;
 - (8) toilet tissue packaged in single rolls;
 - (9) baby food packed in glass jars;
 - (10) individually packed candy and chewing gum offered for sale at cash register/checkout locations;
 - (11) salad dressings, in either bottles or packets; and
 - (12) refrigerated yogurt in half pint sizes (8 ounces) or less, sold individually or in packs.
- (Added effective October 25, 1993; Amended effective November 3, 2003.)

Sec. 21a-79-6. Signs required to inform consumers of exemption and retail price

(a) Exempted consumer commodities shall have a three-inch by five-inch sign conspicuously placed adjacent to the display of such consumer commodity, with a frequency of one sign for every six linear feet

of display, or fractional part thereof. Such sign shall: (1) contain a statement that the consumer commodity has been exempted from the requirement that each such consumer commodity be individually marked with its retail price, and that, in the event that an exempted consumer commodity registers at the cash register or checkout terminal at a retail price which is higher than the retail price as stated, one item of such exempted consumer commodity up to a value of twenty dollars, shall be given to the consumer at no cost; and (2) not contain any additional text, including but not limited to store or promotional slogans, names, or advertising. (b) Each exempted consumer commodity shall have its current retail price disclosed on a tag or label directly adjacent to the consumer commodity, on the shelf on which the commodity is displayed. For purposes of this subsection, the tag or label provided pursuant to Section 21a-74 (b) (1) of the Connecticut General Statutes shall be deemed to satisfy the requirements of this subsection. (Added effective October 25, 1993; Amended effective October 1, 2007.)

Sec. 21a-79-7. Electronic pricing error. One item at no cost. Signage

(a) In the event that any consumer commodity electronically scans at the cash register or checkout terminal at a retail price which is higher than the posted retail price, one item of such consumer commodity, up to a value of twenty dollars, shall be given to the consumer at no cost.

(b) The consumer shall be informed of the retailer's obligation to provide one item free up to a value of twenty dollars, by means of the conspicuous sign referred to in section 21a-79-6 (a) of the Regulations of Connecticut State Agencies or section 21a-79 of the Connecticut General Statutes, and a second conspicuous sign attached to each cash register or checkout terminal in a retailer's establishment. The sign attached to the cash register or checkout terminal shall be at least six inches by eight inches in size, easily readable by a consumer making a purchase at such cash register or checkout terminal, and shall not contain any additional text including but not limited to store or promotional slogans, names, or advertising, other than that required by section 21a-79 (b) 6 of the Connecticut General Statutes. As an alternative to such cash register or checkout terminal signs, the retailer may display a conspicuous sign, with minimum dimensions of 22 inches by 28 inches, at each public entrance within the store, which sign shall not contain any store or promotional slogans, names, or advertising and which shall read, in clear and conspicuous type, as follows:

"In the event that a consumer commodity scans at a higher price, you will be given one item of that consumer commodity free of charge up to a value of \$20.00. Credit will be given for items of higher value."

(Added effective October 25, 1993; Amended effective October 1, 2007.)

Unit Pricing of Consumer Commodities

Sec. 21a-73. (Formerly Sec. 19-210c). Unit pricing: Definitions. As used in sections 21a-73 to 21a-77, inclusive:

(a) "Commissioner" means Commissioner of Consumer Protection;

(b) "Consumer commodity" means any food, drug, device, cosmetic or other article, product, or commodity of any other kind or class, except drugs sold only by prescription, which is customarily produced for sale to retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered in or around the household, and which usually is consumed or expended in the course of such consumption or use;

(c) "Unit price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of weight, measure or count, computed to the nearest whole cent or fraction thereof;

(d) "Unit of a consumer commodity" means any consumer commodity in packaged form

upon which is affixed a statement indicating the quantity of such commodity contained in such package.

Sec. 21a-74. (Formerly Sec. 19-210d). Seller to disclose unit and total price of consumer commodity, (a) Any person who sells or offers or exposes for sale at retail any consumer commodity designated by the commissioner, in accordance with the provisions of section 21a-73, shall disclose to the consumer the unit and total price of such commodity as provided in subsection (b) of this section unless exempted pursuant to section 21a-76.

(b) Persons subject to the requirements of subsection (a) of this section shall disclose the unit price and total price to consumers by one or more of the following means: (1) By attachment of a stamp, tag or label directly adjacent to the consumer commodity, on the shelf on which the commodity is displayed, or by stamping or affixing the price information on each unit of a consumer commodity; or (2) if the consumer commodity is so located that it is not conspicuously visible to the consumer, or is so located that the price information if displayed in accordance with subdivision (1) would not be conspicuously visible to the consumer, by a sign or list bearing such price information, conspicuously placed near the point of procurement; or (3) by such other means as the commissioner may by regulation provide.

(c) Any printed advertisement to aid, promote or assist, directly or indirectly, in the sale of any consumer commodity subject to the provisions of subsection (a) of this section, which printed advertisement compares or otherwise displays different sizes or measures of the same such commodity, shall not state the total price of such commodity unless such advertisement also states the unit price of such commodity.

Sec. 23 a-75. (Formerly Sec. 19-210e). Regulations. Hearings. Civil penalties for noncompliance. (a) The commissioner shall adopt regulations necessary to carry out the purposes of sections 21a-73 to 21a-77, inclusive, for the best interests of consumers and, in addition, shall by regulation: (1) Designate those consumer commodities as to which display of the unit price shall be required, upon a determination that such display will be in the best interests of consumers; (2) designate the unit of weight, measure, or count in terms of which the unit price of each consumer commodity designated under subdivision (1) shall be expressed, provided that no designated unit shall be such as to require persons subject to the provisions of subsection (a) of section 21a-74 to measure any consumer commodity solely for the purpose of complying with said section; (3) designate whether the unit price of each consumer commodity designated under subdivision (1) shall be expressed to the nearest whole cent or fraction thereof; (4) prescribe the means for the disclosure of price information upon determination that such means would be more effective than those prescribed in subdivision (1) or (2) of subsection (b) of said section 21a-74,

(b) The commissioner shall adopt regulations pursuant to the provisions of chapter 54.

(c) The commissioner shall hold a hearing in accordance with the provisions of chapter 54

whenever he has probable cause to believe, or whenever twenty-five or more citizens state in writing to him their belief, that a person has violated any of the provisions of sections 21a-73 to 21a-76, inclusive.

(d) Upon a finding that a person has violated any of the provisions of sections 21 a-73 to 21 a-76, inclusive, the commissioner may issue a warning citation or may impose a civil penalty of not more than one hundred dollars for the first offense and not more than five hundred dollars for each subsequent offense. Each violation with respect to all units of a particular consumer commodity on any single day shall be deemed a single offense.

Sec. 21a-76. (Formerly Sec. 19-210f). Exceptions. The provisions of sections 21a-73 to 21a-77, inclusive, shall not apply to any owner-operated single retail store or to any store occupying a total retail sales area of not more than three thousand five hundred square feet.

Sec. 21a-77. (Formerly Sec. 19-210g). Criminal penalty. Any person who violates any provision of sections 21 a-73 to 21a-77, inclusive, shall be fined not more than two hundred dollars for the first offense nor more than one thousand dollars for each subsequent offense. Each violation with respect to all units of a particular consumer commodity on any single day shall be deemed a single offense.

Sec. 21a-75-1. Definitions

- (a) "Commissioner," as used in these regulations, means the Commissioner of Consumer Protection,
- (b) "Consumer Commodity" means any food, drug, device, cosmetic, or other article, product, or commodity of any other kind or class, except drugs sold by prescription only, which is customarily produced for sale to retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered in or around the household, and which usually is consumed or expended in the course of such consumption or use.
- (c) "Unit Price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per unit of weight, measure or count, computed to the nearest whole cent or fraction thereof.
- (d) "Point of Sale" as used in these regulations, means the point at which consumer commodities are offered and displayed for retail sale in such a manner that the consumer may examine and select commodities for purchase without the assistance of sales personnel.
- (e) As used in these regulations, the terms food, drug, device and cosmetic are defined as in Section 21a-92 of the Connecticut General Statutes:
 - (i) "Food" means (1) articles used for food or drink for man or animals, and (2) chewing gum, and (3) articles used for components of any such article;
 - (ii) "Drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, or any supplement to any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of

disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or any other animal; and (4) articles intended for use as a component of any articles specified in this subsection; but shall not include devices or their components, parts or accessories;

(Mi) "Device" means instruments, apparatus and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, or (2) to affect the structure or any function of the body of man or other animals:

(iv) "Cosmetic" means (1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

Sec. 21a-75-2. Persons to whom regulations apply

(a) Any person who sells or offers or exposes for sale at retail any of the consumer commodities designated in Section 6 of these regulations shall disclose to the consumer the price per unit of weight or measure or count and the total price, as required by Section 4. of the regulations.

(b) Owner-operated single retail stores are exempt from these regulations. An "owner-operated single retail store" shall meet the following requirements:

(i) The principle owner of the owner-operated single retail store must hold more than 50% of the ownership interest of the store and may not have any ownership Interest whatsoever in any other retail store in the State of Connecticut which sells consumer commodities covered under the unit pricing statute; and

(ii) At least one person who has an ownership interest in the store, or a member of his immediate family, must be employed at the premises of the store during all hours that the store is open to the public, or at least forty hours per week, whichever is less. For purposes of this section, "immediate family" means the owner's parent, son, daughter, husband, wife, brother or sister.

(Effective July 27, 1984; Amended July 28, 1992.)

Sec. 21a-75-3. Exempt products

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(a) Beverages subjected to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act.

(b) Products which are required to be marked individually with the cost per unit weight under the provisions of Section 42-1151 of the Connecticut General Statutes.

(c) Such consumer commodities which are sold in units of even pounds, pints/ quarts or gallons, and which have a retail price plainly marked thereon; but only the particular consumer commodities sold in such units shall be exempt.

(d) Different products co-mingled in one receptacle or package for the purpose of a one-price sale.

(e) Products sold in one size limit only.

- (f) Snack foods such as cakes, candies, or chips, sold in packages under five ounces in weight.

(Effective July 27, 1984; Amended effective September 26, 1996.)

Sec. 21a-75-4. Method of disclosure

(a) All retail establishments subject to these regulations shall disclose the price per measure to the consumer by the attachment of a tag or label of any of the following colors on the item itself, or on the shelf or at any other point of sale immediately below the item, or above the item, so as to be conspicuously visible to the consumer. The permissible colors for such tag or label are red, blue, green, orange, yellow, or brown. The color white may be used in conjunction with any of these other colors, but white lettering on clear plastic or cellophane wrappers may not be used. In the alternative, a retailer may disclose the price per measure to the consumer by means of an electronic device, referred to in subsection (f) of this section, which must be placed on the shelf or at any other point of sale immediately below the item, or above the item, so as to be conspicuously visible to the consumer. Such electronic device shall utilize blue color for the retail price and orange color for the unit price.

(b) The tag, label or electronic device shall contain the following three elements:

- (i) The words "Unit Price" shall appear as a heading, with the unit price always appearing above, or to the left of, the then-selling price;

- (ii) The price per measure expressed in terms of dollars or cents as applicable, carried to three digits. If the price is over \$1.00, it is to be expressed to the nearest full cents, provided that the said price is rounded off from .005 and over to the next higher cents; and if .004 or less cent, it be carried to three digits. Examples: "25.3 per pound; \$1.67 per quart"; and

- (iii) The applicable unit of weight or measure or count.

(c) The following additional information may appear on the tag, label or electronic device at the option of the individual retailer:

- (i) The description of the commodity being sold by item and size;

- (ii) In items such as paper products, the applicable "ply" count or thickness may be included; and

- (iii) Such logistical information which the retail establishment requires, such as order codes, number of rows, or shelf capacity.

(d) If the consumer commodity is not conspicuously visible to the consumer or where the display space used for a particular consumer commodity is inadequate to set forth separate price legends, as required by these regulations, a list of the prices per measure shall be conspicuously posted at or near the point of sale or the point of display; or the price per measure may be stamped or affixed to the item itself.

(e) The price per measure shall be displayed in type no smaller than that used for the retail price of the item, but in no event shall the price per measure appear in size less than pica type. When a retail food establishment employs display material at the point of sale and the retail price appears thereon in sizes larger than pica type, the unit price information required by these regulations shall conspicuously appear thereon and shall appear in size no less than pica type or 1/4 the size numerals used for the retail price, whichever is greater.

(f) An electronic shelf labeling system which uses electronic devices to only display the unit price information required by subsections (b), (c), and (d) of this section may be utilized with the approval of the commissioner. In seeking the commissioner's approval, a retailer must send in a written request for such approval, along with a description of the proposed electronic shelf labeling system. In deciding whether to approve the electronic shelf labeling system, the commissioner's review shall include but not be limited to the overall appearance of the device and its capacity to transmit the unit pricing information to consumers. If a retailer utilizes an electronic shelf labeling system, such system must be constructed and affixed in such a manner so as to prevent alteration or movement of the electronic device or display information by consumers.

(Effective July 27, 1984; Amended July 28, 1992; Amended effective September 26, 1996.)

Sec. 21a-75-5. Price per measure

(a) The price shall be designated as per pound or as per ounce, whichever offers the most meaningful basis of comparison for the consumer, on all commodities whose net quantity is customarily expressed in units of pounds or ounces or both, provided that the same unit of measure is used for the same commodity in all sizes sold in such retail establishment.

(b) The price shall be designated as per pint, quart or gallon or ounce or liter for commodities whose net quantity is expressed in units of pints, quarts, gallons or fluid ounces or ounces or liters, or a combination thereof, provided, that the same unit of measure is used for the same commodity in all sizes sold in such retail establishment.

(c) The price shall be designated as per 50 feet or per 100 square feet, or per 100 feet as appropriate, for commodities and items whose net quantity is customarily expressed in units of feet, inches, square feet or square yards, or per product measurement or whose net quantities are expressed in units of area or length provided, that the same unit of measure is used for the same commodity in all sizes sold in such retail establishment.

(d) The price shall be designated as per 1 unit or 50 units or 100 units of commodities, whose net quantity is expressed by a numerical count provided, that the same unit of measure is used for the same commodity in all sizes sold in such retail establishment.

Required Units of Measure for Unit Price Designation

The following list of products indicates the corresponding unit of measure which is required to be used in the designation of the unit price of such products by all retail food establishments subject to the unit price regulations. As a general rule, all dry bulk products are unit priced by the pound; all products sold in aerosol cans are unit priced by the pound; and the majority of the liquid products are unit priced by pints, quarts or gallons. There are several products on this list which may be unit priced by different units of measure, provided that the same unit of measure is used for the same commodity in all sizes sold in a single retail food establishment.

(Effective July 27, 1984; Amended effective September 26, 1996; February 2, 2007.)

Sec. 21a 75 – 6. Products regulated

(a) Group 1:

<u>Product</u>	<u>Unit of Measure</u>
Detergents:	
liquid	pint or quart or ounce or gallon
dry	pound or ounce
Household cleansers; waxes, polishes and deodorizers;	
liquid	pint or quart or gallon or ounce
dry	pound or ounce
aerosols	pound or ounce
Cereals	pound or ounce
Instant breakfast foods	pound or ounce
Butter	pound or ounce
Oleomargarine	pound or ounce
Coffee, instant and ground	pound or ounce
Cocoa, chocolate syrup	pint or quart or ounce or gallon if sold by volume
	pound or ounce if sold by weight
Tea:	
bags	per 50 or 100 units or per 1 count
bulk	pound or ounce
instant	pound or ounce
Jellies and Jams	pound or ounce
Peanut butter	pound or ounce
Mayonnaise	pint or quart or ounce or gallon
Paper products including napkins, paper towels and tissues	per 50 or 100 units or per 1 count 1 or 50 or 100 square feet/foot per 1 count
Aluminum wraps, plastic wraps and waxed paper	per 1 or 50 or 100 square feet/foot
Paper and plastic bags plates and cups	per 50 or 100 units

Product

Unit of Measure

Baby foods:	
Solids	pound or ounce
juices	pint or quart or ounce or gallons

(b) Group 2:

Fruits and vegetables:	
canned	pound or ounce
jarred	pound or ounce
boxed	pound or ounce
Juices	pint or quart or ounce or gallon
Shortenings	pound or ounce
Flours	pound or ounce
Cooking oils	pint or quart or ounce or gallon
Canned fish and canned meats	pound or ounce
Spaghetti, macaroni, noodles, and pasts products	pound or ounce
Soups, canned and dried	pound or ounce

(c) Group 3:

Frozen fruits and vegetables	pound or ounce
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Frozen juice	pint or quart or ounce or gallon if sold by volume
Pet foods	pound or ounce if sold by weight
Prepared baking mixes including cakes, pancakes and biscuits	pound or ounce
Ketchup and mustard	pint or quart or ounce or gallon if sold by volume
Tomato, spaghetti, and meat sauces	pound or ounce if sold by weight pint or quart or ounce or gallon if sold by volume
Pickles and relishes	pound ounce if sold by weight pint or quart or ounce or gallon if sold by volume
Snack foods, including potato chips and pretzels	pound or ounce
Bread and pastry products	pound or ounce
Bottled beverages carbonated and non-carbonated	Pint or quart or ounce or gallon
Flavored syrups and powdered drink mixes	Pint or quart or ounce or gallon if sold by volume
Cookies and crackers	Pound or ounce if sold by weight
Salad dressings: liquid	pound or ounce
dry mixes	pint or quart or ounce or gallon
Toothpaste	pound or ounce
Shaving creams	pound or ounce
Deodorants	pound or ounce
Shampoos	pint or quart or ounce or gallon
Cold cuts	pound or ounce
Fish products and meat	pound or ounce

(Effective July 28, 1992; amended September 26, 1996)

Sec. 21a 75-7. Extension of time for compliance

Any retail establishment which is unable to comply with these regulations may make written application to the Commissioner for permission to extend such time for compliance for a period not to exceed thirty days. Such retail establishment shall set forth, in as much detail as possible, the reasons for its inability to comply. The Commissioner may extend such period from time to time, upon such terms and conditions as may be deemed reasonable.

(Effective July 27, 1984)

Sec. 21a – 75-8. Responsibility for compliance

In the event of a violation of these regulations, the owner, the manager, or the person in charge of such retail establishment, and the person employing such manager or person in charge, where applicable, shall be deemed to be responsible for compliance by such retail establishment with the requirements of these regulations.

(Effective July 27, 1984)

AN ACT CONCERNING AN ALTERNATIVE
ELECTRONIC RETAIL PRICING SYSTEM PILOT PROGRAM.

Sec. 3. (NEW) (a) Notwithstanding the provisions of section 21a-79 of the general statutes and any regulations adopted under said section, the Commissioner of Consumer Protection may, within available appropriations, establish a pilot program for the test audit of alternative electronic retail pricing systems that maintain and display the item and unit price of consumer commodities, as defined in subsection (a) of section 21a-79 of the general statutes.

The commissioner shall select one or more retailers to participate in any such pilot program in accordance with the following requirements: (1) The retailer shall conduct business from one or more stores in this state on the effective date of this act; (2) the retailer shall submit to the commissioner a written request to participate in the pilot program and indicate in such written request the retailer's willingness to pay all costs associated with a test audit under such pilot program; and (3) the retailer shall implement a system to be test audited that, at a minimum, (A) maintains the retailer's current item prices and unit prices for each product in an electronic database, (B) prints shelf tags that meet all applicable requirements for item pricing and unit pricing in effect on the effective date of this act, and (C) operates in such a way that (i) price decreases are immediately transmitted directly to the point of sale, and (ii) price increases are transmitted to the point of sale only after such shelf tags are posted and such posting has been verified in the electronic database. (b) The commissioner may designate a private auditing organization to conduct any such test audit and shall charge the cost of such test audit to the selected retailer. No such test audit shall be conducted for a period exceeding six months. The retailer shall designate one store in which the test audit will be conducted. During the test audit, such store shall be exempt from the provisions of subdivision (1) of subsection (b) of section 21a-79 of the general statutes and any applicable regulations adopted under said section. (c) The commissioner shall report the results of each test audit conducted under any such pilot program and any recommendations to the joint standing committee of the General Assembly having cognizance of matters relating to consumer protection not later than three months after the completion of such test audit. Such report shall include a copy of any audit report prepared by the commissioner or any such private auditing organization. Approved June 8, 1998

Sec. 42-115l. Label to show price per unit. In addition to the declarations required by section 42-115k, any commodity in package form, the package being one of a lot containing random weights, measures or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count.

Sec. 42-115n. Advertisement of price to show quantity. Whenever a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package; provided in connection with the declaration required under this section there shall be declared neither the qualifying term "when packed" nor any other words of similar import, nor such terms qualifying a unit of weight, measure or count as "jumbo", "giant", "full" and the like, that tend to exaggerate the amount of commodity in the package.

FLORIDA

The 2007 Florida Statutes

Title XXXIII

REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

Chapter 501

CONSUMER PROTECTION

501.135 Consumer unit pricing.--

- (1) **SHORT TITLE.**--This act shall be known and cited as "The Consumer Unit Pricing Act."
- (2) **PURPOSES; RULE OF INTERPRETATION.**--This act shall be liberally construed to effectively promote the following purposes and policies:
 - (a) Protect the interests of consumers and encourage constructive and useful competition in the sale of consumer commodities.
 - (b) Encourage, to the extent that it will facilitate the consumer's choice of consumer commodities, the development and use of a method of unit pricing for consumer commodities.
 - (c) Prohibit the use of unit pricing of consumer commodities when it would tend to mislead or deceive consumers.
 - (d) Encourage competition among sellers of consumer commodities through the use of uniform units of quantity for unit pricing of consumer commodities.
 - (e) Encourage the development and use, by sellers, of consumer education programs with respect to factors which should be considered in the purchase of consumer commodities which are offered for sale or sold on a unit price basis, with special attention to the needs of disadvantaged consumers for such consumer education programs.
 - (f) Provide for a state-approved program of unit pricing of consumer commodities.
- (3) **DEFINITIONS.**--As used in this act:
 - (a) "Seller" means any person engaged in the business of selling a consumer commodity at retail.
 - (b) "Consumer commodity" means any article, product, or commodity of any kind or class, other than durable articles, textiles, items of apparel, appliances, paints, writing supplies, and articles specially ordered from the seller, including prescription drugs, which is customarily produced or distributed for sale at retail for consumption by individuals or use by individuals for purposes of personal care or in the performance of routine services ordinarily rendered regularly within the household, and which is usually consumed or expended in the course of such consumption or use.
 - (c) "Unit price" means the pricing of, or expression of the price of, a consumer commodity as the price per an approved unit of quantity.
 - (d) "Department" means the Department of Agriculture and Consumer Services.

(4) RESPONSIBILITY OF DEPARTMENT.--The department shall have the authority, duty and responsibility of administering and enforcing this act.

(5) APPROVED UNIT OF QUANTITY AND COMPUTATION OF UNIT PRICE.--

(a) The price of all consumer commodities offered for sale or sold by a seller shall be expressed as the price per approved unit of quantity, which shall be the price per:

1. Avoirdupois ounce;

2. Fluid ounce;

3. Unit;

4. Square foot;

5. Linear foot;

6. Pound; or

7. Such substitute unit or units of quantity as may be approved by the department upon a finding of need for such substitute unit.

(b) Unit prices shall be computed to the nearest one-hundredth of 1 cent rounded to the nearest one-tenth of 1 cent for purposes of display to consumers. Five one-hundredths of 1 cent shall be rounded to the next highest one-tenth of 1 cent.

(c) This act shall not apply to any seller unless he or she voluntarily establishes a system of unit pricing.

(6) DISPLAY AND ADVERTISING OF CONSUMER COMMODITY UNIT PRICES.--A seller shall conspicuously and clearly display the price per package or unit and the unit price in close proximity to the display of the commodity in such manner as may be established by rules of the department. However, the display of the prices may not obliterate or conceal any other information required by law or regulation. Nothing contained herein shall be construed to require that a seller unit price any consumer commodity other than those with regard to which he or she has voluntarily established a system of unit pricing.

(7) PENALTIES.--Any person who offers for sale, or sells, any consumer commodity in violation of this act is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(8) INJUNCTIVE RELIEF.--The department may institute proceedings in the appropriate circuit court for injunctive relief to enforce this act.

History.--ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 72-325; s. 6, ch. 78-95; s. 623, ch. 97-103.

The 2007 Florida Statutes

Title XXXIII

REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

Chapter 531

WEIGHTS, MEASURES, AND STANDARDS

531.44 Misrepresentation of pricing; verification procedures.--

(1) No person shall misrepresent the price of any commodity or service sold or offered, exposed, or advertised for sale by weight, measure, or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of a fraction shall be prominently displayed, and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of, the numerals representing the whole cent.

(2) The department may adopt, by rule, sampling procedures for determining acceptable pricing practices. Sampling procedures for determining acceptable pricing practices may include, but are not limited to, those procedures adopted by the National Conference on Weights and Measures.

History.--s. 1, ch. 72-101; s. 27, ch. 97-220.

HAWAII

HRS Chapter 486-116.

§486-116 Misrepresentation of price. Whenever any commodity or service is bought or sold, or is offered, exposed, or advertised for sale or purchase, by weight, measure, or count, the price shall not be misrepresented, nor presented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser or seller. The price of consumer commodities, when offered for sale at retail, shall be clearly displayed and shall reflect the retail price at which the public may, without special credentials or other requirements, purchase the commodities. The price displayed and the price actually charged the purchaser shall be identical unless a prior agreement has been reached between the buyer and the seller or the price charged is lower than the price displayed. Whenever an advertised, posted, or labeled price per unit of measure includes a fraction of a cent, all numerals expressing the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to and of the same general design and style as the whole numeral or numerals of the price per unit as established by rule of the board. [L 1991, c 153, pt of §6; am L 1993, c 54, §10; am L 1998, c 192, §4]

§4-91-3

TITLE 4 DEPARTMENT OF AGRICULTURE

SUBTITLE 7 DIVISION OF MEASUREMENT STANDARDS

CHAPTER 91

UNIT PRICING OF CONSUMER COMMODITIES

§4-91-1 Severability

§4-91-2 Violation

§4-91-3 Applicability

§4-91-4 Method of unit pricing

§4-91-5 Exemptions

§4-91-6 Pricing

§4-91-7 Presentation of price

Historical note: This chapter is based substantially upon Section 9.700 of Rule 9.000/486-71, entitled "Unit Pricing of Consumer Commodities," of the Division of Measurement Standards. [Eff. 2/11/74; R 12/26/81]

§4-91-1 Severability. If any provision of this chapter is held invalid, the invalidity shall not affect the remainder of this chapter and, to this end, the provisions of this chapter are severable. [Eff. 12/26/81] (Auth: HRS §486-9) (Imp: HRS §486-9)

§4-91-2 Violation. Any person omitting the required acts or committing the proscribed acts, or who supplies or offers for sale a commodity which is not in full compliance with the requirements of this chapter, shall be in violation of this chapter and subject to the provisions of chapter 486, Hawaii Revised Statutes. [Eff. 12/26/81] (Auth: HRS §486-9) (Imp: HRS §§486-9, 486-16, 486-30)

§4-91-3 Applicability. This chapter applies to the unit pricing of consumer commodities offered for retail sale:

(1) As mandated by section 486-21, Hawaii Revised Statutes;

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§4-91-3

(2) To packages of which the net measure is standardized by industry practice or rule of the director;

(3) To packages of which the unit price is voluntarily displayed by the retailer; and

(4) To the unit of measure to be employed in each program.

[Eff. 12/26/81] (Auth: HRS §486-9) (Imp: HRS §§486-9, 486-20, 486-21)

§4-91-4 Method of unit pricing. The commodities listed herein shall bear the price per single unit of measure as prescribed:

Commodity Program Unit of Price

- (1) Candy voluntary per pound or ounce
- (2) Cereals voluntary per pound or ounce
- (3) Cheese, natural and processed mandatory per pound
- (4) Coffee, tea and cocoa voluntary per pound or ounce
- (5) Cookies and crackers voluntary per pound or ounce
- (6) Cooking oils and shortening voluntary per quart, fluid ounce, pound, or ounce
- (7) Deodorants, personal voluntary per ounce
- (8) Dry detergents, soap powder voluntary per pound or ounce and household
- (9) Foil, film and other rolls of voluntary per fifty square feet wrapping (except gift wrap)
- (10) Fruits and vegetables mandatory per pound or (Provided that any display individual unit involving "per/each" as a unit price, must contain only produce of a given size and grade, so as to facilitate value comparison)
- (11) Fruit and vegetable juices voluntary per quart or fluid and drinks ounce
- (12) Hair preparations voluntary per ounce
- (13) Jams, jellies, preserves and voluntary per pound or ounce peanut butter
- (14) Liquid detergents, household voluntary per quart of fluid cleaners and disinfectants ounce
- (15) Liquid soups and condensed voluntary per pound or quart liquid soups

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§4-91-7

- (16) Meat, poultry, and seafood mandatory per pound
- (17) Pet food voluntary per pound
- (18) Relishes and condiments voluntary per pound or ounce
- (19) Rice voluntary per pound
- (20) Salad dressing voluntary per quart of fluid ounce
- (21) Sanitary paper products voluntary per fifty square feet or, if by count, per unit; including ply
- (22) Shaving preparations voluntary per ounce
- (23) Soft drinks voluntary per quart or fluid ounce
- (24) Syrups, table and topping voluntary per pound or quart or fluid ounce
- (25) Toilet water and colognes voluntary per ounce
- (26) Toothpaste voluntary per ounce

[Eff. 12/26/81] (Auth: HRS §486-9) (Imp: HRS §§486-9, 486-19, 486-21)

§4-91-5 Exemptions. Any commodity listed under §4-91-4 shall be exempt when:

- (1) Packaged in quantities of less than one ounce (avoirdupois or fluid); or
- (2) The total retail price is less than ten cents; or
- (3) There is only one brand in only one size appearing in a particular establishment.

[Eff. 12/26/81] (Auth: HRS §486-9) (Imp: HRS §§486-9, 486-19, 486-21)

§4-91-6 Pricing. The unit price information shall be displayed to at least the nearest tenth of one cent when less than one dollar, and to the nearest cent when a dollar or more. [Eff. 12/26/81] (Auth: HRS §486-9) (Imp: HRS §§486-9, 486-11, 486-25)

§4-91-7 Presentation of price. (a) In any retail establishment in which unit price information is provided in accordance with the provisions of this section, the information may be displayed by means of:

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§4-91-7

(1) A sign which offers the unit price for one or more brands or sizes of a given commodity; or

(2) A sticker, stamp, sign, label, or tag, affixed to the shelf upon which the commodity is displayed; and

(3) A sticker, stamp, sign, label, or tag, affixed to the consumer commodity itself.

(b) If a single sign or tag does not provide the unit price information for more than one brand or size of a given commodity, then the following information shall be provided:

(1) The identity;

(2) The brand name;

(3) The quantity of the packaged commodity if more than one package size per brand is displayed;

(4) The total sale price; and

(5) The price per appropriate unit, in accordance with §4-91-4.

(c) Where a sign providing unit price information for one or more sizes or brands of a given commodity is used, the sign shall be located centrally as close as practical to all items to which the sign refers, and the unit price information displayed thereon shall be presented in a clear, distinct, and non-deceptive manner. [Eff.

12/26/81] (Auth: HRS §486-9) (Imp: HRS §§486-9, 486-21, 486-25)

IDAHO

71-234.MISREPRESENTATION OF PRICE PROHIBITED -- FRACTIONS OF CENTS. Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half ($1/2$) the height and width of the numerals representing the whole cents.

LOUISIANA

LOUISIANA ADMINISTRATIVE CODE TITLE 7

AGRICULTURE AND ANIMALS

PART XXXV. DIVISION OF WEIGHTS AND MEASURES

Chapter 1. Division of Weights and Measures

\ 101. Specifications, Tolerances and Regulation for Commercial Weighing and Measuring Devices

A. All of Handbook H-44 issued by the National Institute of Standards and Technology entitled Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices is hereby adopted by reference.

B. That part of Handbook 130 issued by the National Institute of Standards and Technology entitled Examination Procedure for Price Verification is hereby adopted by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), amended LR 23:857 (July 1997), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Commission, LR 24:1495 (August 1998), LR 34:408 (March 2008).

\ 117. Bar Code Scanning Devices and Labels

- A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.
- B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.
- C. In calculating violations of the Section, multiple items contained in the same lot shall constitute one violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993), amended LR 23:857 (July 1997)

§4617. Fraud by vendors or by purchaser

A. No one shall misrepresent the price or quantity of a commodity, thing, or service sold or offered or exposed for sale, to any actual or prospective customer.

B. No one shall take more than the quantity represented of any commodity, thing, or service, when, as buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing, or service is determined.

MARYLAND

Article - Commercial Law

§14–103.

(a) Except as provided in § 14-102 of this subtitle, each person who sells or offers or displays for sale a consumer commodity at retail shall disclose:

- (1) The total price of the consumer commodity; or
- (2) Except as provided in subsection (c) of this section, the unit price of the consumer commodity if:

(i) It is sold only by units; or

(ii) It is a prepackaged or retail-packaged consumer commodity within any of the following categories:

1. Foods, condiments, cooking oils, shortenings, and similar commodities;
2. Paper products, including napkins, towels, and tissues;
3. Wrapping products, including those made of paper, plastic, and aluminum;
4. Soaps, detergents, cleansing aids, deodorizing aids, and similar commodities.

(b) If a packaged consumer commodity described in subsection (a)(2)(ii) of this section is priced for a multiple-package purchase, the seller shall disclose the unit price of that commodity on the basis of the multiple package.

(c) A person is not required to disclose the unit price of a consumer commodity described in subsection (a)(2) of this section if he then is disclosing unit prices for at least 90 percent of the dollar volume or number of items of all his consumer commodities which are subject to the disclosure requirements of subsection (a)(2) of this section.

Article – Agriculture (law)

§11–309.

(a) If any commodity or service is sold, offered, exposed, or advertised for sale by weight, measure, or count, the price may not be misrepresented or represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser.

(b) If an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, every element of the fraction shall be displayed prominently and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one half the height and width of any numeral representing the whole cents.

The annotated Code of the Public General Laws of Maryland

1982 Cumulative Supplement

Title 14

Miscellaneous Consumer Protection Provisions

Subtitle 1. Unit Pricing

\14-101. Definitions.

(e) *Unit price.* – “Unit Price” means the retail price of an item expressed in dollars and cents per unit. In addition to any units commonly in use in the United States, the following units may be used if appropriate:

- (1) Per pound for an item the net quantity of which is expressed in pounds, ounces, or both;
- (2) Per kilogram (1000 grams) for an item the net quantity of which is expressed in kilograms, grams, or both;
- (3) Per meter (100 centimeters) for an item the net quantity of which is expressed in meters, centimeters, millimeters, or a combination of them;
- (4) Per quart for an item the net quantity of which is expressed in quarts, pints, fluid ounces, or a combination of them;
- (5) Per liter for an item the net quantity of which is expressed in liters and milliliters, or a combination of them;
- (6) Per 100 feet for an item the net quantity of which is expressed in yards, feet, inches, or a combination of them;
- (7) Per 100 square feet for an item the net quantity of which is expressed in square yards, square feet, square inches, or a combination of them;
- (8) Per 100 units for an item the net quantity of which is expressed in terms of a numerical count.

(1978, ch527)

\14-106. Enforcement.

If the Division has reason to believe that a sales agency has violated any provisions of this subtitle or any rule or regulation adopted under \14-105 of this subtitle, the Attorney General or the Division at his direction may institute a proceeding under Title 13 of this article. (An. Code 1957, art. 83, \21E; 1975, ch.49, \3; 1976, ch 607.)

\14-101. Definitions

- a) *In general.* – In this subtitle the following words have the meanings indicated.
- b) *Consumer commodity* – “Consumer commodity” means any food, drug, cosmetic, or other article, product, or commodity of any kind or class which is:
 - (1) Customarily produced for sale at retail for consumption by individuals for purposes of personal care or in the performance of services ordinarily performed in or around the household; and
 - (2) Usually consumed or expended in the course of that use or performance other than by wear or deterioration from use.
- c) *Division.* – “Division” means the Division of Consumer Protection of the office of the Attorney General.

- d) *Person.* – “Person” includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.
- e) *Unit Price.* – “Unit price” means the retail price of an item expressed in dollars and cents per unit. In addition to any units commonly in use in the United States, the following units may be used if appropriate:
 - (1) Per pound for an item the net quantity of which is expressed in pounds, ounces, or both;
 - (2) Per kilogram (100 grams) for an item the net quantity of which is expressed in kilograms, grams, or both.
 - (3) Per meter (100 centimeters) for an item the net quantity of which is expressed in meters, centimeters, millimeters, or a combination of them.
 - (4) Per quart for an item the net quantity of which is expressed in quarts, pints, fluid ounces, or a combination of them.
 - (5) Per 100 feet for an item the net quantity of which is expressed in yards, feet, inches, or a combination of them;
 - (6) Per 100 square feet for an item the net quantity of which is expressed in square yards, square feet, square inches, or a combination of them.
 - (7) Per 100 units for an item the net quantity of which is expressed in terms of a numerical count.

§ 14-102. Exemptions from unit pricing.

- a) *Exemptions.* – This subtitle does not apply to:
 - (1) Prepackaged food which contains separately identifiable items that are separated by physical division within the package.
 - (2) Any item sold only by prescription;
 - (3) Any item subject to the packaging or labeling requirements of the Federal Alcohol Administration Act or to any pricing requirements under federal law;
 - (4) Any item actually being sold through a vending machine.
 - (5) Any item delivered directly to a retail sales agency without passing through warehousing or other inventory facility used by the agency; or
 - (6) Except as provided in subsection (b) of this section, a retail sales agency which:
 - i. During the preceding calendar year, sold a gross volume of consumer commodities of less than \$750,000;
 - ii. Is not part of a company which consists of ten or more sales agencies in or out of the State;
 - iii. Derives less than 15 percent of its total revenues from consumer commodities subject to this subtitle; or
 - iv. Is owned and operated by not more than one individual and the members of his immediate family.
- b) *Exceptions.* – A sales agency which otherwise is exempt under subsection (a) (6) of this section nevertheless is subject to this subtitle if, during the preceding calendar year, the company of which the sales agency is a part has a gross volume of sales of consumer commodities in excess of \$30,000,000. (An. Code 1957, art. 83, § 21 E; 1975, ch. 49, § 3.)

§ 14-103. Required Disclosures

- (a) *Price information required – In general.* -Except as provided in § 14-102, each person who sells or offers or displays for sale a consumer commodity at retail shall disclose:
 - (1) The total price of the consumer commodity; or
 - (2) Except as provided in subsection (c) of this section, the unit price of the consumer commodity if:
 - i. It is sold only by units; or
 - ii. It is a prepackaged consumer commodity within any of the following categories:
 - 1. Foods, condiments, cooking oils, shortenings, and similar consumer commodities;

2. Paper products, including napkins, towels, and tissues;
 3. Wrapping products, including those made of paper, plastic, and aluminum; and
 4. Soaps, detergents, cleansing aids, deodorizing aids, and similar consumer commodities.
- (b) *Price information required – Multiple packages.* - If a packaged consumer commodity described in subsection (a)(2)(ii) of this section is priced for a multiple-package purchase, the seller shall disclose the unit price of that commodity on the basis of the multiple package.
- (c) *Extent of unit price disclosure* – A person is not required to disclose the unit price of a consumer commodity described in subsection (a)(2) of this section if he then is disclosing unit prices for at least 90 percent of the dollar volume or number of items of all his consumer commodities which are subject to the disclosure requirements of subsection (a)(2) of this section. (An. Code 1957, art. 83, § 21E; 1975, ch.49, § 3.)

§ 14-104. Manner of disclosure.

The seller shall disclose the total price or unit price, as the case may be, for each item in the following manner:

- (1) If the item is visible conspicuously to the consumer, by attachment of a stamp, tag, or label:
 - i. Directly on the item or its package; or
 - ii. Directly adjacent to the item or on the shelf on which the item is displayed; or
- (2) If the item is not visible conspicuously to the consumer or if the stamp, tag, or label would not be visible conspicuously to the consumer, by a sign or list which contains the price information and is visible conspicuously to the consumer. (An. Code 1957, art. 83, § 21E; 1975, ch. 49, § 3.)

§ 14-105. Rules and regulations; grant of exemption.

- (a) *General authority of Division.* – At the direction of the Attorney General, the Division may:
- (1) In accordance with § 13-205 of this article, adopt reasonable rules and regulations appropriate to effectuate any provision of this subtitle, which rules and regulations, however, may not extend, modify, or conflict with this subtitle or its reasonable implications; and
 - (2) Grant to a sales agency an exemption from any requirement of this subtitle if the sales agency uses a program which is approximately as or more comprehensive than the program of unit pricing required by this subtitle.
- (b) *Violation of rules or regulations.* - A person who willfully violates any rule or regulation of the Division, in addition to any other penalty provided, is subject to the same penalty applicable to violation of the provision of this subtitle to which the rule or regulation relates. (An. Code 1957, art. 83, § 21E; 1975, ch. 49, § 3.)

§ 14-106. Compliance.

- (a) *Commencement of proceeding.* – If 25 or more residents of the State, within a 15-day period, state in writing to the Attorney General their belief that the actions of any sales agency constitute a pattern of noncompliance with this subtitle, the Attorney General or the Division at his direction may hold a public hearing.
- (b) *Notice and hearing.* – The sales agency alleged to be in noncompliance with this subtitle shall be given at least 10 days' prior written notice of the public hearing. At the hearing, it shall have an opportunity to;
- (1) Demonstrate compliance; or

- (2) Enter into an agreement to begin to comply within 60 days from the date of the hearing.
- (c) *Costs.* – If, at the conclusion of the hearing, the Attorney General or the Division finds that there was in fact a pattern of noncompliance, the Attorney General may issue an order which requires the person responsible for the noncompliance to pay to the State any part of the direct or indirect cost of the hearing, including the cost of preparing for it.
- (d) *Breach of agreement to comply or failure to pay costs.* –
 - (1) The Attorney General may declare that a person is engaged in an unlawful practice if he finds that the person:
 - i. Has breached any agreement entered into under subsection (b) of this section; or
 - ii. Has failed to pay any costs ordered to be paid under subsection (c) of this section.
 - (2) If the unlawful practice is subsequently continued or repeated, it is an unfair or deceptive practice within the meaning of Title 13 of this article and is subject to the enforcement and penalty provisions contained in Title 13. (An. Code 1957, art. 83, \ 21 E; 1975, ch. 49, \ 3.)

Title 02 OFFICE OF THE ATTORNEY GENERAL
Subtitle 01 CONSUMER PROTECTION DIVISION
Chapter 01 Unit Pricing

Authority: Commercial Law Article, §14-105, Annotated Code of Maryland

.01 General.

These regulations are promulgated pursuant to Commercial Law Article, \14-105, Annotated Code of Maryland. They are intended to effectuate the provisions of the Unit Pricing Law, \14-101 et seq., Annotated Code of Maryland, and are not intended to extend, modify, or conflict with the Unit Pricing Law or its reasonable implications.

.02 Findings.

- A. The Consumer Protection Division of the Office of the Attorney General and the Consumer Council find that some of those sales agencies required to unit price have not done so properly or in conformance with the Unit Pricing Law. The increasing costs of consumer commodities mandates the continued attention of the Division to enforce the Unit Pricing Law, as the disclosure of unit pricing information gives consumers a method of price comparisons for similar or identical consumer commodities. Thus, the availability of properly disclosed unit pricing information will provide an effective tool for informed and economical consumer purchasing.
- B. The Division and the Council further find that the General Assembly has authorized the Division to promulgate regulations to effectuate the purpose of the Unit Pricing Law, and has given the Council the role of advising the Division on these regulations. The proposed regulations explain the requirements of the Unit Pricing Law, clarify the method of disclosure, and require meaningful consumer information necessary to effectuate the Law's purpose. Provisions are proposed to set forth the

responsibilities of those sales agencies required to unit price to notify the Division if an exemption from compliance is requested or if non-intentional technical errors are discovered.

.03 Definitions.

- A. “Control” means the possession, direct or indirect, of the power to direct, or cause the direction of, the management and policies of a person, whether through ownership of voting securities, by contract, or otherwise.
- B. “Inventory facility” means a physical location, separate and apart from the physical location of the sales agency, where consumer commodities are stored and subject to inventory accounting, and which thereafter are distributed to the physical location of the sales agency.
- C. “Members of the immediate family” mean the spouse, son, daughter, parent, brother, and sister of the individual owner.
- D. “Multi-unit packages” means packages intended for retail sale containing two or more identically packaged or labeled units of an identical commodity in the same quantity.
- E. “Non-intentional technical errors” means inaccuracies in the unit pricing information reflected upon stamps, tags, labels, signs, or lists where these defects have resulted from a malfunction of a printing press, electronic data processing equipment, or other mechanical equipment used to produce these stamps, tags, labels, signs, or lists, or from the mistake of a computer programmer or machine operator, when this malfunction or mistake was not within the knowledge or control of the owner, operator, or management personnel of the store and when this owner, operator or management personnel could not, with reasonable diligence, have detected and corrected these errors.
- F. “Preceding calendar year” means the immediately preceding period, January 1 through December 31.
- G. “Sales agency” means any proprietorship, partnership, corporation, or other legal or commercial entity which sells or offers for sale at retail, those consumer commodities defined in the Commercial Law Article, §14-101(b), Annotated Code of Maryland (hereinafter, the “Unit Pricing Law”).
- H. “Variety packages” means packages intended for retail sale containing two or more identical packages or units or similar but not identical commodities. Commodities which are generally the same, but which differ in weights, volume, appearance, or quality are considered similar but not identical. Not included within this definition are items under Regulation .07A.

.04 Exemptions.

- A. To determine whether it is exempt from compliance with the Unit Pricing Law, a sales agency shall refer to the exemptions found in Commercial Law Article, §14-102(6)(i) – (iv), Annotated code of Maryland.
- B. A sales agency shall be given a reasonable time after the close of its fiscal year to calculate gross annual sales to determine whether it is exempt from the provisions of the Unit Pricing Law pursuant to §14-102(6)(i). For purposes of these regulations, any time in excess of 3 months shall be presumed to be unreasonable. If compliance is mandated, the sales agency shall be given 2 months to implement its unit pricing system.
- C. If the sales agency is found to be required to unit price, it shall comply with the Unit Pricing Law and these regulations no later than June 1 following the close of its fiscal year, if determined on a calendar year basis. If the sales agency’s fiscal year is determined by any other method, compliance shall be required by no later than 150 days after the close of this fiscal year.

.05 Direct Delivery

For purposes of \ 14-102(a)(5), items shall be considered to have been directly delivered when the items have not passed through any warehouse or inventory facility which is owned or controlled directly or indirectly by the sales agency.

.06 Consumer Commodities to be Unit Priced

- A. Section 14-103(a)(2)(ii) of the Unit Pricing Law defines the categories of consumer commodities required to be unit priced. Any of these commodities which are priced for multi-unit or variety package purchase shall be unit priced on the basis of the total contents.
- B. The unit price of any consumer commodity sold with a deposit for the container's return, shall be based on the price of the item's contents without regard to the amount of the deposit. The fact that there is a deposit, however shall be clearly and conspicuously displayed on the product or its package or near the product.

.07 Consumer Commodities not Required to be Unit Priced.

The seller is not required to unit price the following:

- A. Those items specifically exempted by \ 14-102(a)(1) – (5);
- B. Items displayed in a non-packaged manner such as loose produce, fresh seafood, meats, and cheeses cut to order;
- C. Durable items, including any item which wears or deteriorates from usage, for example, kitchen utensils, pots and pans, and any other type of cooking or kitchen aids and household goods, such as brooms, fabric cleaning towels, and other durable goods.

.08 Repricing Policy and Discounts from Regular Price.

- A. When the sales agency has established and clearly disclosed a no-repricing policy, whereby items on display are not repriced to reflect a higher price, the applicable unit price stamps, tags, labels, signs, or lists shall display the unit price of the higher price.
- B. When the manufacturer of a consumer commodity has offered a discount or cents off the price of items offered for sale by a sales agency, the unit price stamps, tags, labels, signs, or lists shall display the higher price.

.09 Uniformity.

- A. If different brands of the same consumer commodity are expressed in more than one measuring unit, the sales agency, if it is possible to do so, shall unit price the items consistently within the same product category. The more familiar measuring unit found in the product group is to be used if conversion and uniformity are possible.
- B. When metric units appear on the consumer commodity, in addition to the other units of measure, the sales agency may use both units of measure on any stamps, tags, labels, signs, or lists.

.10 Unit Pricing Information to be Disclosed on Items Conspicuous to the Consumer

- A. Section 14-104(1) of the Unit Pricing Law provides for the method of disclosing the required unit pricing information.
- B. The unit pricing tags, stamps, or labels shall contain in easily readable and understandable print the price of the item, the unit price, the unit of measure, the name and size of the item, and the brand name if there is one.

- C. The tags, stamps, or labels need not be any special size, but shall be conspicuously visible to the consumer.

.11 Unit Pricing Information to be Disclosed on Items Inconspicuous to the Consumer.

- A. Section 14-104(2) of the Unit Pricing Law provides for the method of disclosing the required unit pricing information on items inconspicuous to the consumer.
- B. The signs or lists shall contain in easily readable and understandable print the price of the item, the unit price, the unit of measure, the name and size of the item, and the brand name if there is one.

.12 Additional Methods of Disclosure

If the consumer commodities are refrigerated, and attachment of stamps, tags, or labels is not practical, the sales agency shall disclose the required unit pricing information by signs or lists. These signs or lists shall be clear, conspicuous, and near the consumer commodities, and the information readily available to the consumer without need for the consumer to inquire of, or otherwise contact store personnel.

.13 Additional Pricing Requirements

- A. The unit price may be shown in type which is at least the size of "elite" type. However, this price shall be identified as the "unit price" or "price per (unit of measure)".
- B. The designation of the unit price per measure of 1 dollar or more shall be expressed in terms of dollars and cents.
- C. If the unit price is under 1 dollar, it shall be listed:
 - (1) To the tenth of a cent (i.e., an item priced at 25.54 cents may read 25.5¢ or 25.5); or
 - (2) To the whole cent. The sales agency shall accurately and consistently use the same method of rounding up or down to compute the price to the whole cent.
- D. The sales agency shall have the option of using (1) or (2) but may not implement both methods.

.14 Non-intentional Technical Errors.

- A. If any errors are alleged by the Division which would subject the sales agency to the enforcement provisions of the Unit Pricing Law, the sales agency shall submit data which shows by the preponderance of the evidence that the errors are non-intentional technical errors.
- B. The data submitted to the Division may contain the following information:
 - (1) Any specific malfunction of the printing press, electronic data processing equipment, or other mechanical equipment used to produce the stamps, tags, labels, signs, or lists;
 - (2) Any specific mistake made by the computer programmer or machine operator;
 - (3) Specific reasons why the malfunction or mistake was not within the knowledge or control of the owner, operator, or management personnel of the store;
 - (4) Specific reasons why the owner, operator, or management personnel could not, within reasonable diligence, have detected or corrected these errors;
 - (5) The name, address, and telephone number of the person or persons responsible for the alleged error;
 - (6) Whether the sales agency had prior similar problems with the printing press, electronic data processing equipment, or other mechanical equipment responsible for the alleged error, and what action was taken by the sales agency to correct the malfunction;

- (7) Whether the sales agency had prior similar problems with the computer programmer or machine operator responsible for the alleged mistake and what action was taken by the sales agency to correct the mistake.
- C. The Division may not consider non-intentional technical errors to be violations of these regulations.

.15 Exemptions from the Operation of the Unit Pricing Law.

- A. Under § 14-105(a)(2), the Attorney General may exempt any sales agency which is using a program of unit pricing which is approximately as or more comprehensive than the program required by the Unit Pricing Law. The following procedures are to be followed by any sales agency requesting an exemption under Maryland law and these regulations:
 - (1) A request shall be made in writing;
 - (2) A request shall be supported by a detailed description of the plan being used;
 - (3) An exemption requested shall be conditioned upon the sales agency agreeing to continue the plan without change, unless prior approval of the Consumer Protection Division is obtained;
 - (4) A request shall be signed by the owner, partners, or corporate officers of the sales agency making the request.
- B. A sales agency which does business in more than one jurisdiction where unit pricing is required by statute, ordinance, rule or regulation, may apply for exemption from Maryland law and these regulations if:
 - (1) The system of unit pricing will be approximately as comprehensive as the program required by Maryland law.
 - (2) The sales agency submits copies of the statute and the regulations of the other jurisdiction and agrees to conduct its unit pricing program in Maryland in the same manner that it conducts unit pricing in the other jurisdiction or jurisdictions;
 - (3) The plan of unit pricing will not be confusing to Maryland consumers; and
 - (4) The request for an exemption complies with conditions in B(1) – (4) or A, above.
- C. No exemption provided for in A or B, above, will be considered to have been granted until the Consumer Protection Division of the Office of the Attorney General has, in writing, advised the sales agency that it is exempt.

.16 Compliance.

- A. The Unit Pricing Law requires 90 percent compliance, which may be based on either of the following, at the option of the sales agency:
 - (1) Dollar volume of items required to be unit priced;
 - (2) Number of items which the store carried which are required to be unit priced.
- B. Every sales agency shall advise the Office of the Attorney General, Division of Consumer Protection, of the option as provided in A, above, which it has elected to use. A sales agency may not then change its option until it has notified the Division of Consumer Protection of the change and this office has acknowledged receipt of the change.

Administrative History

Effective date: September 1, 1972

Chapter revised effective June 2, 1978 (5:11 Md. R. 880)

MASSACHUSETTS

Code of Massachusetts Regulations

Chapter 94

\ 184B. Definitions applicable to section 184B to 184E

For purposes of this section and sections one hundred and eighty-four C to one hundred and eighty-four E, inclusive, the following words shall have the following meanings:

“Automatic checkout system”, a cash register, computer, terminal, or other device capable of interpreting the universal product code, or any other code which is on an item offered for sale used to determine the price of the item being purchased, regardless of whether the code entry is accomplished manually, or automatically by a machine.

“Coded”, any symbol, letter, number or combination thereof other than the price itself which is stored in and interpretable by the seller’s automatic checkout system.

“Correct price”, the advertised price in any circular, newspaper, magazine, television or radio commercial, or in any other medium, or any published correction thereof. If an item is not advertised, the correct price shall be the lowest price indicated on any store sign for the item, but not if such item is rung up at a lower price. If no sign is displayed, the correct price shall be the price of the item on its displayed unit price label, but not if such item is rung up at a lower price. If no unit price label is displayed, the correct price shall be the price rung up by the food store’s or food department’s automatic checkout system. If the foregoing provisions for establishing the correct price are not determinative in a particular situation, the correct price shall be the price on the seller’s current price list.

“Display”, two or more units of an item located together. A display shall be deemed to be checked after the correct price is ascertained and one or more units are removed from the display and examined for accurate price markings.

“End-aisle display”, a display of a specific item consisting of at least fifty units, not including units in closed \cartons or otherwise inaccessible to the consumer which is located in a freestanding display or at the end of, or adjacent to, a shelved tier of groceries or other items.

“Food”, anything edible.

“Food department”, any seller other than a food store with any grocery item section, area, or display and which sells ten or more different food items for consumption off the seller’s premises at least in part to individuals for their own personal, family, or household use; provided, however, that any food section which is within a larger business and is the functional equivalent of a supermarket with its own separate checkout, may be deemed a food store by the director of standards.

“Food store”, any store, shop, supermarket, grocer, convenience store, warehouse-type seller, club, outlet, or other seller, whose primary business is selling either food for consumption off the seller’s premises alone or in combination with grocery items or other non-durable items typically found in a supermarket, and such items are sold at least in part to individuals for their own personal, family, or household use.

“Grocery items”, any food, pet food or supply, soap, household cleaner of any type, laundry product, light bulbs, or disposable paper or plastic products.

“Gross error”, a price which is less than half the price stated by the seller as the actual selling price, and which was never intended as the selling price at any time during the previous thirty day period.

“Item”, a specific and distinct product, good, or commodity. One item is differentiated from another by having a different universal product code for the items so coded; and for items not so coded, the item has any distinguishing characteristics compare to another item.

“Represented price”, any price represented to a consumer as the actual selling price including the price on any sign, price tag, unit price label, advertisement, item, or cash register display.

“Rung up”, the price on a cash register or terminal sales slip or display which indicates the price the consumer will be charged for each item; provided, however, that such price is not the result of a keypunching error by the cashier or inspector.

“Unit”, a single piece of an item, such as one can, package bag, or multi-pack.

Added by St. 1986, c. G31 \ 3. Amended by St. 1987, c. 15 \ 4.

\ 184C. Price marking of food and grocery items

Except as hereinafter provided, every item in a food store and every grocery item in a food department offered for sale, whether edible or not, shall have each unit individually marked with the correct selling price. All prices represented to the consumer for the same item shall be consistent with each other and to the price rung up and charged for the item. The seller shall be responsible for the completeness and accuracy of all price marking.

The following classes of items are exempt from the price marking requirement of this section; provided, however, that the cashier can readily discern the price of the exempted item, that no exempted item is marked with an incorrect price, that the exempted item is on a current price list maintained by the seller as hereinafter provided and that a clear and conspicuous separate sign, or a single sign in the case of similar items all priced the same, larger than the seller’s regular unit price label with the price no smaller than one inch high is place at the point of display of each exempted item containing the name of the item, the correct price, and, if appropriate, the size or other distinguishing information:

- (1) unpackaged: produce, meat, fish, poultry, delicatessen, bakery items, and any other unpackaged items offered from a bulk display, except that any such item weighted or wrapped to order by the food store or food department but paid for at a place other than at the point of such weighing or wrapping shall have the correct price marked on the item;
- (2) gallons and half gallons of milk;
- (3) eggs;
- (4) cigarettes, cigars, tobacco and tobacco products;
- (5) individual units within a multi-unit package if the package is correctly price marked;
- (6) snack foods such as cakes, gum, candy, chips, and nuts if offered for sale individually, weigh less than three ounces, cost seventy-five cents or less, and are located at the checkout area;
- (7) individual greeting cards; provided, however, that such cards are marked with a price code readily understandable by the consumer.
- (8) individual glass jars of baby food of the same brand and price where vegetable or fruit is the predominant ingredient other than water, but not including juices; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system, they are on an easily referenced price list at each cash register;
- (9) soft drink bottles and cans; provided, however, that items are fully and accurately price marked at their regular shelf location and the seller maintains a list of such items as required by section one hundred and eighty-four D;
- (10) not more than sixty items that are located in end-aisle displays; provided, however, that if offered for sale by a seller with an automatic checkout system they are coded, or if offered by a seller without such system they are on an easily reference price list

at each cash register; and provided, further, that such items are fully and accurately price marked at their regular shelf location, and the seller maintains a list of such items as required by section one hundred and eighty-four D. Said sixty item limit shall be reduced by seventy-five percent in the case of a food department. For the purpose of determining whether a seller has exceeded said sixty item limit, units of an item which differ only by color, flavor, or scent shall be considered the same item if they are otherwise identical in all respects including price, size, and brand, unless in a particular case the director of standards determines that such units are different items.

Added by St. 1986, c. G34, § 3. Amended by St. 1987, c. 15, § 4; St. 1900, c. 367, §§ 1, 2; St. 1991, c.121.

§ 184D Food stores or departments utilizing automatic checkout systems; exempt items; violations

In addition to the exemptions in section one hundred and eighty-four C, food stores or food departments which, for a majority of the items offered for sale, utilize an automatic checkout system which is at least ninety-five per cent accurate as determined by the director of standards may also exempt up to a maximum of four hundred additional items provided, however, that they are coded and subject to the following limitations and qualifications and those in section one hundred and eighty-four C:

- (1) The exact number of additional exempt items allowed by this section shall be based on the number of operable cash registers or terminals located at the seller's main checkout location, but not to exceed four hundred. Cash registers at the seller's courtesy desk, or otherwise away from the main checkout location, if the seller maintains such main checkout location, shall not be included in the calculation, unless approved by the director of standards.

Sellers with one operable cash register shall be allowed to exempt twenty additional items of their own choosing. Sellers with two, three to four, or five to six operable cash registers shall be allowed to exempt fifty, one hundred or two hundred additional items respectively. Sellers with seven or more operable cash registers may exempt up to four hundred additional items. In the case of a food department, the number obtained in the above calculation shall be reduced by seventy-five per cent. In no case shall the number of exemptions permitted by this exception exceed four and one-half per cent of the number of packaged grocery items carried by the seller.

- (2) Any food store or food department permitted to exempt additional items under this section shall establish at each store location a dated written list of the items it has chosen to exempt. The list shall include a readily understandable description of each item and the code number understood by the seller's automatic checkout system. The list shall be maintained so that any item may be referenced easily. Deletions may be made from the list at any time, but no additions, substitutions, or changes may be made to the list except twice a year in January and July starting with July nineteen hundred and eighty-seven. The exemption permitted by this section shall not apply to any item not on that list and shall not apply unless such list has been established and is available upon request at the store to any consumer or any representative authorized by the director of standards. The director of standards may require the periodic filing of such list with his office. No seller may choose to exempt items required to be price marked by other laws or regulations governing specific types of items, or may exempt more than two hundred items in any one department except in the dry grocery department.
- (3) All food stores and food departments shall maintain a current and accurate price list of all items exempted under the provisions of section one hundred and eighty-four C and this section. Such list may be maintained in any reasonable manner, including by an automatic checkout system or merged with nonexempt items; provided, however, that the information contained therein can be referenced easily by the person requesting it. All food stores and food departments shall also maintain a separate, current, written or

printed list of the items it chooses to exempt under the provisions applying to end-aisle displays. Such lists shall be made available upon request to any representative authorized by the director of standards, and the price for any item contained therein shall be provided to any person upon request.

- (4) Violations of the provisions of section one hundred and eighty-four B to one hundred and eighty four E, inclusive, for which fines shall be levied shall include: having no price marked on any unit that is required to be priced and is not exempted; having an incorrect price on any unit; having an incorrect or missing sign; or overcharging on any unit. A unit shall be deemed to be overcharged once it is rung up at a price higher than any represented price.

There shall be a tolerance for error on all fineable violations discovered during an in-store inspection except overcharging. In the case of a display checked for unmarked and incorrectly marked units, the tolerance shall be such that the one display of an item most in violation out of each twenty displays checked shall be excluded in computing that fine. Said tolerance shall not be less than one display per inspection. In the case of a violation for incorrect or missing signs, the tolerance for error shall be calculated such that the number of sign violations actually found among those checked shall be reduced by ten per cent, but by not less than one violation, and such violations omitted shall be excluded in computing any fine. Each unit or sign in violation shall constitute a separate violation; provided, however, that no item may be subject to violations for both overcharging and incorrect price markings. Multiple units from the same display of an item which are found in violation of the same infraction shall be considered one fineable violation. An inspector may inspect any or all units in any display of any item. The seller shall allow the inspector access to the seller's automatic checkout system.

Added by St.1980, c. 634, \ 3. Amended by St. 1987, c. 15, \ 4.

\ **184E. Inspections; fines; price accuracy guarantee; regulations.**

Any representative authorized by the director of standards may conduct inspections of any item and shall issue notices of violation to any food store or food department for any violation of this section and sections one hundred and eight four B to one hundred and eighty-four D, inclusive; provided, however, that no food store or food department shall be inspected more than once a week. The fine shall be one hundred dollars for each violation, up to a maximum fine of twenty-five hundred dollars per inspection. The seller shall immediately correct all violations including those where a tolerance was granted.

In the case of any verified consumer complaint, fines for overcharging shall be limited to one violation per item. A fine shall be issued without allowance for tolerance upon verification of any consumer complaint alleging overcharging or improper price marking except for those units where the seller gave the consumer the units tendered for purchase free under a qualified price accuracy guarantee.

The director of standards may require sellers to disclose a consumer's rights under the provisions of this section and sections one hundred and eight-four B to one hundred and eighty-four D, inclusive.

Any food store or food department which maintains and complies with the terms of a qualified price accuracy guarantee in the form prescribed below, and posts an explanation of such price accuracy guarantee at each cash register or terminal, shall have all per violation fines reduced by fifty per cent. If the director of standards determines that a food store or food department is either intentionally or through gross negligence violating any provisions of this section and sections one hundred and eight-four B to one hundred and eighty-four D, inclusive, all the store's exemptions shall be rescinded for a period of twelve months, and the matter shall be referred to the attorney general for action against such food store or food department. Uncontested fines levied under said sections shall be paid within thirty days of issuance of the notice of violation. Any aggrieved seller may appeal any unjustified fines to the director of standards if such appeal is filed within thirty days of issuance of the notice of violation. If the grounds for appeal are determined to be without reasonable basis, the fine shall be doubled.

A qualified price accuracy guarantee at a minimum is one which immediately gives any consumer one unit free of every different item which was either (a) rung up at a price higher than the lowest price marked on the unit, and for unmarked units, the price on any sign or unit price label; or (b) rung up at a price higher than the price advertised for the item. Sellers may elect option (a) or (b), or both, but option (b) may only be elected alone if the seller advertises at least fifty packaged grocery sale items each week not including meat and produce. To take advantage of the guarantee, the consumer need only point out the over-charge to the cashier.

All food stores and food departments shall provide an itemized sales slip to all consumers indicating at a minimum the price charged for each item or unit. No food store or food department shall refuse to sell any unit tendered for purchase at the lowest price represented to the consumer by the seller or supplier; provided, however, that the seller shall have no obligation to sell such unit at the lowest represented price if it is the result of a gross error, if it is based on the price marked on another unit of the same item and the tendered unit is marked only with a higher price, or if the price tag, label, or sign shows evidence of obvious physical tampering, or if it is given away free under a price accuracy guarantee.

This section and sections one hundred and eight four B to one hundred and eighty-four D, inclusive, shall only apply to food stores and to grocery items in food departments. Said sections shall not diminish any obligations under other laws or regulations regarding item pricing for sellers other than food stores, or for items other than grocery items in food departments. The director of standards shall not issue a fine pursuant to this section and said sections one hundred and eight-four B to one hundred and eighty-four D, inclusive, and section fifty-six D of chapter ninety-eight for the same violation. Where a seller is also subject to the item pricing regulations or guidelines of another agency, in cases where a specified number of items is allowed to be exempted under two similar exceptions to the requirement of item pricing, such similar provisions shall not be additive. Compliance with another agency's regulations or guidelines which differ from said sections or any regulations issued hereunder by the director of standards shall not be a defense to a violation of said section or any regulations promulgated hereunder.

The director of standards may promulgate regulations or issue guidelines for the implementation or interpretation of said sections.

Failure to comply with any of the provisions of said sections shall constitute a violation and an unfair or deceptive act or practice under the provisions of chapter ninety-three A.

Added by St. 1986, c. 634, § 3. Amended by St. 1987, c. 15, § 4.

§ 115A. Unit pricing of packaged commodities; retail sale; regulations; enforcement; penalties; report

The director of standards may adopt regulations establishing lists of packaged commodities necessary for personal, family, or household use to be offered for sale at retail and which may not be sold in retail stores unless there is posted in a conspicuous place at or near the point of sale the price per pound, pint, or other unit or measurement of contents and the total sales price. Such regulations shall exempt any packaged commodity whose net weight is one whole unit or two whole units and which has the retail price plainly marked thereon. No packaged commodity shall be included in these regulations which must be individually marked with the cost per unit of weight, liquid, or dry measure, as provided in section one hundred and eighty-one of chapter ninety-four. Said director of standards may adopt such further regulations as are necessary to carry out the intent of this section, provided that a public hearing shall be held relative to any packaged commodity proposed to be regulated. The director of standards and local sealers and deputy sealers of weights and measures in cities and towns shall enforce any regulation adopted pursuant to the authorization contained in this section. Whoever violates any provision of this section shall for the first offense be punished by a fine of not less than ten nor more than fifty dollars and for a subsequent offense by a fine of not less than twenty-five nor more than one hundred dollars.

Said director of standards shall annually report to the general court on or before the last Wednesday in January of each year relative to any action taken by it pursuant to this section in the preceding year.

The provisions of this section shall not apply to any retail establishment operated by a person as his sole place of business; provided, that said establishment has a sales volume of less than five million dollars per year.

Amended by St. 1986, c. 634, \1; St. 1987, c. 15, \1 1, 2; St. 1993, c. 495, \3.

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Section

- 5.01: Definitions
- 5.02: Exemptions
- 5.03: Means of Disclosure
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5.01 Definitions

Packaged Commodity means any food, drug, device, cosmetic and any other article, product or commodity of any kind or class which is customarily necessary or used for personal, family, or household use, and offered for sale at retail and which is listed in 202 CMR 5.05.

- (a) Unit Price means the price per measure
- (b) Item Price means the total sales price

For the purpose of enforcing 202 CMR 5.00:

1. Goods sold in case lots will be considered one whole unit.
2. Multi-Paks will be considered one whole unit, provided the items comprising the multi-pak are not sold individually.
3. Case lot and pallet displays-items contained therein sold individually. All items, unless exempted, must be marked with the retail price. For enforcement purposes, only those items in the layers of cases exposed for sale in the display, will have to be price marked.
 - (c) Retail Store means any retail outlet including wholesale clubs and membership warehouses that sells or offers for sale any packaged commodity that is listed in the Definitions section of 202 CMR 5.00 section 5.01 under Packaged Commodity

5.02 Exemptions

Sellers at retail need not comply with the provisions of 202 CMR 5.00 as to the following packaged commodities:

- (1) Medicine sold by prescription only.
- (2) Beverages subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act.
- (3) Such packaged commodities which are required to be marked individually with the cost per unit of weight under the provisions of M.G.L. c.94 S,181.
- (4) Packaged commodities which are sold in packages containing one or two of the unit of measure prescribed in 202 CMR 5.00 and which have an item price plainly marked thereon: but only the particular packaged commodity in such units shall be exempt. All other items in excess of two multiples of the unit of measure must be unit priced.
- (5) Packaged commodities sold by any retail establishment operated by a person as his sole place of business shall be exempt from 202 CMR 5.00 if gross annual sales are less than one million dollars.

- (6) “Deal Items”, such as Cents Off, Bonus Packs, Percent Off, Half Price, or manufacturer “Pre-Priced” Items. If the same as or lower than regular selling price, provided the unit price is posted as required for “Non Deal” Items.

5.03 Means of Disclosure

All retail establishments subject to 202 CMR 5.00 shall disclose the unit price and item price to consumers in the following manner:

1. The Unit price label, stamp, or tag must consist of no more than two dominant segments.
 - (a) The left-hand segment of the label, stamp, or tag must be orange; the other part of the label must be primarily white;
2. Orange shall be defined for purposes of 202 CMR 5.00 as being measured inclusively between the wavelengths of 595 and 620 millimicrons (or between 3950 and 6200 angstroms) on a normal color spectrum. For purposes of everyday recognition and operation, only the following identifying numbers for orange, as found in the U.S. Government General Services Administration Federal Standards Publication (Color-card) #595a and change notice 3, revised January 2, 1968 will be considered in compliance with the above specifications: #22510, #12473, and #32246.
3. When a label at any time fails to fall within the color range specified in 202 CMR 5.03.2, even though it may be due to the fading of the color, said label shall not be considered in compliance with 202 CMR 5.00.
 - (a) The unit price label, stamp or tag must appear on the item itself or directly under the item on the shelf on which the item is displayed for items which are not specially displayed or stored. The Unit Price label must not in any way be obscured and must be visible at all times.
 - (b) For specially stored or displayed items such as frozen and cold storage commodities and goods which are marketed on end displays, the unit price label, stamp, or tag shall appear on the shelf or display space contiguous with the area where the item is displayed.
4. The orange segment of the label, stamp, or tag must be conspicuously visible to the customer carrying the following data and no other:
 - (a) The words “Unit Price” as a heading directly above the numerical unit price.
 - (b) The unit price expressed in the following manner
 - (1) \$X.XX per unit for all commodities whose unit price is \$1.00 or greater.
 - (2) XX.X ¢ per unit for all commodities whose unit price is less than \$1.00 but greater than ten cents.
 - (3) X.XX ¢ per unit for all commodities whose unit price is ten cents or less.
 - (4) ¢, Cents, cnts, if expressed in cents.
 - (5) \$, dollars, dols, dlrs., if expressed in dollars
 - (c) The applicable “ply” count or thickness for items such as paper products which are manufactured in numbers of folds showing such information.
5. The primarily white segment of the label, stamp, or tag must carry the following data:
 - (a) Item price.
 - (b) The description of the packaged commodity.
 - (c) The size of the commodity being sold.

Other stocking information may also be included thereon at the option of the retail establishment PROVIDED that said information does not in any way obscure, de-emphasize or confuse the unit price information.

6. The Unit Price of commodities regulated hereunder shall be displayed in type no smaller than that used for the item price, but in no event shall the unit price appear in size less than 3/8 inch unless approved by the Director of Standards.
 - (a) PROVIDED that when the retail establishment employs display material at or near the point of sale and the item price appears thereon in sizes larger than 3/8 inch, the unit price required hereunder must appear in a size no less than 3/8 inch or 1/4 the size used for the item price, whichever is greater.
 - (b) PROVIDED FURTHER that the unit price shall be printed in bold solid figures which must be clear, conspicuous and legible.
 - (c) EXCEPTIONS the retail establishment shall not be required to comply with the provisions of 202 CMR 5.03 s.2 as to color and s.3 as to size of type, where the product or commodity carries an

item price and unit price on its package, and where the unit price appears thereon in a size no smaller than that used for the item price.

- (d) Electronic shelf displays which display unit price, item price and other required information simultaneously, when incorporated in an electronic price scanning system and have been approved for retail use by the Director.
- (e) When the display space used for the packaged commodity is inadequate to set forth separate unit and item price legends as required-hereunder, or where the retailer believes unit price information may be usefully conveyed to consumers by alternative method the required disclosures may be set forth on such legends as are required hereunder on display cards or other material used for the display of prices for such commodities. However, any such alternative method must be approved by the Director as specified in 202 CMR 5.06, prior to being displayed.

The display of the unit price in any event shall be conspicuously visible at all times and appear on an orange background. The size of type used for the unit price legend shall be no less than 1/4 the size used for the retail price or 3/8 inch, whichever is greater.

5.04 Price Per Measure

Unless otherwise specified in 202 CMR 5.05, the unit price shall be expressed as:

- (1) Price per pound for commodities whose net quantity is customarily expressed in units of pounds or
- (2) For purposes of price comparison all semi-viscous commodities of the same generic kind, if packaged in both terms of weight and fluid measure, shall be unit priced by the pound if packaged in terms of weight or by the pint if packaged in terms of fluid measure.
- (3) Price per pint, quart, or gallon for commodities whose net quantity is customarily expressed in units of pints, quarts, gallons, or fluid ounces, or a combination thereof.
- (4) Price per 100 feet or 100 square feet, as appropriate, for commodities whose net quantity is customarily expressed in units of feet, inches, square feet, or square yards.

5.05 Packaged Commodities Regulated and Unit of Measure to be used

The following commodities shall be labeled in accordance with 202 CMR 5.05. Each commodity must be unit priced only in the unit of measure listed below, unless otherwise approved by the Director. In addition, the Director, upon written request of any multi-state retailer, may authorize a different unit of measure to be used throughout that retailer's multi-state distribution system.

<u>Commodity</u>	<u>Unit of Measure</u>
Aluminum, Plastic wraps, and Waxed papers	100 square feet
Baby foods	Quarts if sold by fluid measure Pounds if sold by weight
Baby formula concentrate	Quarts if liquid, Pounds if sold by weight Label must also have a statement of the total fluid volume concentrate will make (i.e. makes 128 fl.oz.)
Baking mixes & supplies	Pounds
Bottled and canned beverages	Gallons

Bread and Pastry products	Pounds
Candy in sizes greater than three ounces (3 oz.)	Pounds
All poultry, fish, and meat products including canned, fresh, or frozen.	Pounds
Cereals, dry, ready-to-eat	Pounds
Cocoa	Pounds
Coffee – Instant and ground	Pounds
Convenience dinners, “one pan” meals	Pounds
Cookies and crackers	Pounds
Dairy products	Gallons if sold by fluid measure Pounds if sold by weight
Cream, non-dairy coffee cream	Pounds if sold by weight Quarts if sold by fluid measure
Sour cream and yogurt	Pounds if sold by weight Quarts if sold by fluid measure
Deodorants, solid and liquid	Ounce
Detergent and soaps	Pounds if sold by weight Gallons if sold by fluid measure
Flour	Pounds

Commodity

Fresh vegetables and produce

Unit of Measure

May be sold by measure, weight or per each PROVIDED that the total measured quantity, item, price and unit price are clearly marked for every item. Individual items sold per each shall be exempt from 202 CMR 5.00

Frozen dairy products	Gallons if sold by fluid measure Pounds if sold by weight
Frozen foods except dairy products	Pounds
Fruits, vegetables – canned, jarred, or boxed	Pounds
Fruit juices	Gallons
Frozen or unfrozen juice	Pounds if sold by weight

concentrate	Quarts if sold by fluid measure
Grains and beans	Pounds
Hair conditioner and sprays	Pounds if sold by weight Quarts if sold by fluid measure
Household cleaners, waxes deodorizers, starches, and bleaches	Pounds if sold by weight Gallons if sold by fluid measure
Instant breakfast foods	Pounds if sold by weight Quarts if sold by fluid measure
Jellies, jams, preserves, and sandwich spreads	Pounds
Ketchup, mustards, sauces and condiments (including pickles and olives)	Pounds if sold by weight Pints if sold by fluid measure
Mouthwash	Quarts
Oleomargarine and butter	Pounds
Oils for cooking	Gallons
Pet food canned and dried	Pounds
Kitty Litter	Pounds
Plastic bags	100 count

Commodity

Powdered mixes

Salad dressing including mayonnaise
and vinegar

Sanitary paper products, including 100 count
but not limited to napkins, facial
tissues, bathroom tissues, paper towels
Seasonings and spices in sizes
greater than 3 oz.

Shampoo

Shaving cream

Shortenings

Snack foods, including but not limited
to potato chips pretzels, and nuts

Unit of Measure

Pounds

Quarts if sold by fluid measure
Pounds if sold by weight

100 square feet

Pounds if sold by weight
Pints if sold by fluid measure

Quarts if sold by fluid measure
Pounds if sold by weight

Pounds

Pounds if sold by weight
Gallons if sold by fluid measure

Pounds

Soups	Pounds if sold by weight Quarts if sold by fluid measure
Sugar	Pounds
Syrups	Quarts if sold by fluid measure Pounds if by weight
Tea	Pounds if sold loose per 100 units if sold as tea bags
Toothpaste	Pounds

5.06 Extension of Time for Compliance

- (1) Any retail establishment that is unable to comply with 202 CMR 5.00 within the time set forth herein may apply to the Director of Standards for permission to extend such time for compliance for a period not to exceed 30 days. Such retail establishment shall set forth, in as much detail as possible, the reasons for its inability to comply. The Director of Standards may extend such period from time to time, upon such terms and conditions as he may deem reasonable.
- (2) Exemptions from compliance with the requirements of any of the provisions of 202 CMR 5.03 through 5.05 may be granted for cause by the Director of Standards upon the filing of a statement setting forth the reason for inability to comply with any of the requirements of 202 CMR 5.03 through 5.05. Any such exemption shall be granted by the Director of Standards for such period of time as he may deem reasonable.

5.07 Responsibility for Compliance

In the event of a violation of 202 CMR 5.00 the manager, or individual in charge of such retail establishment and the individual or corporation employing such manager or individual in charge, where applicable, shall be deemed to be responsible for compliance by such retail establishment with the requirements of 202 CMR 5.00

5.08 Determination of Label Acceptability

All unit price labels and alternative display methods as allowed for in 202 CMR 5.03 prior to their display in retail establishments, must be approved by the Director of Standards in order to insure accord with the stipulations laid out in 202 CMR 5.00. The Director of Standards will render a decision within four weeks of receipt of the label or alternative method of display. In reaching a decision, the Director of Standards shall take into consideration, but will be limited to, the prominence of the unit price segment of the label, the boldness of the figures which must be clearly and conspicuously printed and the overall design of the label.

5.09 Severability Provision

If any section or portion of a section of 202 CMR 5.00, or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of 202 CMR 5.00, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.

5.10 Effective Date

202 CMR 5.00 supersede all other Unit Pricing Regulations and shall be effective September 1, 1993

Regulatory Authority

202 CMR 5:00 M.G.L. c. 6, s 115A,

MICHIGAN
SHOPPING REFORM AND MODERNIZATION ACT
Act 15 of 2011

AN ACT to regulate certain pricing of consumer items and the advertising of consumer items, goods, merchandise, and commodities; to prescribe the powers and duties of certain state and local officials; to provide remedies and penalties; to make appropriations; and to repeal acts and parts of acts.

History: 2011, Act 15, Eff. Sept. 1, 2011

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The People of the State of Michigan enact:

Document	Type	Description
Section 445.311	Section	Short title.
Section 445.312	Section	Definitions.
Section 445.313	Section	Director of department of agriculture and rural development; duties.
Section 445.314	Section	Advertisements; requirements; guarantee; notification of availability of items; applicability of section to certain goods.
Section 445.315	Section	Untrue, deceptive, or misleading advertisement; "not first class" defined.
Section 445.316	Section	Exceptions to MCL 445.314 and 445.315.
Section 445.317	Section	Display of total price of consumer item offered for sale; exceptions.
Section 445.318	Section	Charging higher price than price displayed on item; violation.
Section 445.319	Section	Applicability of section to certain sales; conditions; loss suffered by buyer; notification; recovery; action brought by buyer; section inapplicable to seller intentionally charging more than displayed price.
Section 445.320	Section	Injunction; proceeding; assurance of discontinuance of act or practice; forwarding of notice of violation; civil fine; rules.
Section 445.321	Section	Public consumer education program; purpose; appropriation; internet website.
Section 445.322	Section	Individual or class action.
Section 445.323	Section	Investigation by prosecuting attorney; action.
Section 445.324	Section	Remedies; enactment of inconsistent ordinances or regulations.

445.311 Short title.

Sec. 1.

This act shall be known and may be cited as the "shopping reform and modernization act".

History: 2011, Act 15, Eff. Sept. 1, 2011

445.312 Definitions.

Sec. 2.

As used in this act:

(a) "Advertise" means the use or dissemination of an advertising by a person that is subject to this act.

(b) "Advertising" or "advertisement" means a communication or representation that is disseminated in any manner by any means for the purpose of inducing, or that is likely to induce, directly or indirectly, the purchase of a consumer item, good, merchandise, or commodity.

(c) "Automatic checkout system" means an electronic device, computer, or machine that determines the price of a consumer item by using a product identity code. An automatic checkout system may but is not required to include an optical scanner.

(d) "Consumer item" means an article of tangible personal property used or consumed, or bought for use or consumption, primarily for personal, family, or household purposes.

(e) A price is "displayed" for a consumer item if the price is stamped, affixed, or otherwise marked on the consumer item; or the price of the consumer item is displayed, by signage, by an electronic reader, or by any other method that clearly and reasonably conveys the current price of the consumer item, to a consumer when in the store at the place where the item is located.

(f) "Person" means an individual, corporation, limited liability company, partnership, association, or other legal entity.

(g) "Sale at retail" means a transfer of an interest in a consumer item by a person that is regularly and principally engaged in the business of selling consumer items to a buyer for use or consumption and not for resale.

(h) "Total price" means the full purchase price of a consumer item, excluding sales tax and container deposit.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.313 Director of department of agriculture and rural development; duties.

Sec. 3.

All of the following apply to the director of the department of agriculture and rural development:

- (a) He or she is responsible for the implementation and administration of sections 7 and 8.
- (b) He or she shall investigate complaints concerning violations of sections 7 and 8 and conduct any other investigations he or she considers advisable.
- (c) As the state director of weights and measures, he or she shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and administer sections 7 and 8.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.314 Advertisements; requirements; guarantee; notification of availability of items; applicability of section to certain goods.

Sec. 4.

(1) A person shall not knowingly advertise the availability of a consumer item for sale at retail at a sale or special price, or as being reduced in price by an amount or proportion, unless the advertisement meets all of the following:

- (a) It includes the dates that item is available at the advertised price, or the quantity available at the advertised price.
- (b) If applicable, it states that the item is available at that price only as long as the advertised quantity lasts or as long as quantities or supplies last.
- (c) If there is a limitation on the quantity available of a consumer item to each customer, that limitation is clearly disclosed.

(2) If a person advertises a consumer item at a specific price that is not indicated to be a special, sale, or reduced price, the advertiser shall do 1 of the following:

- (a) Make the consumer item available at the advertised price for not less than 5 days after the date the consumer item was last advertised. If the item is not available for that period of time, the requirements of subsection (3) apply. The advertiser is not required to make the consumer item available nor fulfill the requirements of subsection (3) if the unavailability of the consumer item is due to a governmental action, a plant closing, or an act of God and if the specific cause of the unavailability of the consumer item is posted conspicuously for review by the consumer.
- (b) Indicate in the advertisement the dates the consumer item is available at the advertised price. If the item is not available for those dates, the requirements of subsection (3) apply.

(c) Indicate in the advertisement the quantity of the consumer item that is available at the advertised price and include in the advertisement that the consumer item is available at the advertised price only as long as the stated quantity lasts.

(3) If an advertisement under this section does not state the quantity of a consumer item available or meet the requirements of subsection (1) or (2)(c), and if the consumer item cannot be sold at the advertised price throughout the advertised period of sale, the advertiser shall make available to the customer a written guarantee to deliver under the advertised conditions the consumer item at a future date stated in the guarantee, or when notified by the advertiser that the item is available. If the advertised consumer item cannot be obtained to satisfy the condition of the guarantee, the advertiser may provide a similar consumer item of equal or greater monetary value.

(4) If an advertiser elects in a written guarantee under subsection (3) to notify a consumer when a consumer item will be available, the notification of availability shall take place within 90 days after the guarantee is given. After the notice of availability is given, the advertiser shall hold the consumer item for delivery to the customer for at least 7 days, except the advertiser is required to hold the consumer item for only 2 days if it is a perishable item.

(5) This section does not apply to baked goods, fresh fruit, or fresh vegetables.

His445.315 Untrue, deceptive, or misleading advertisement; "not first class" defined.

Sec. 5.

(1) A person shall not knowingly make, publish, disseminate, circulate, or place before the public an advertisement that contains a statement or representation that is untrue, deceptive, or misleading.

(2) A failure to sell goods, merchandise, or commodities in the manner advertised, or a refusal to sell at the price at which they are advertised or in accordance with other terms and conditions of the advertisement, creates a rebuttable presumption of an intent to violate this act.

(3) For purposes of this section, the extent to which an advertising fails to reveal facts that are material in light of the representations made or suggested in a positive manner shall be considered in determining whether the advertising is deceptive or misleading.

(4) A person shall not make, publish, disseminate, circulate, or place before the public an advertisement with the intent, design, or purpose not to sell the goods, merchandise, or commodities at the price stated in the advertisement or otherwise communicated, or with intent not to sell the goods, merchandise, or commodities included in the advertisement.

(5) A person shall not advertise, call attention to, or give publicity to the sale of goods, merchandise, or commodities that the person knows are not first class, if the manufacturer of those goods, merchandise, or commodities has rejected them as not first class, unless there is displayed directly in connection with the name and description of the goods, merchandise, or commodities, a direct and unequivocal statement, phrase, or word that clearly indicates that the advertised goods, merchandise, or commodities are seconds or are

blemished goods, merchandise, or commodities, or have been rejected by the manufacturer of the goods, merchandise, or commodities. For purposes of this section, goods, merchandise, or commodities that are advertised, offered for sale, and sold as a unit or set consisting of more than 1 part or piece are sufficiently identified as not first class if advertised, offered for sale, and sold as a unit or set at the single price advertised, and are displayed in connection with a direct and unequivocal statement, phrase, or word identifying the goods as not first class. As used in this subsection, "not first class" means the goods, merchandise, or commodities are substantially defective or consist of articles or units or parts commonly referred to as seconds or blemished goods, merchandise, or commodities.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.316 Exceptions to MCL 445.314 and 445.315.

Sec. 6.

Sections 4 and 5 do not apply to an owner, publisher, printer, agent, or employee of a newspaper, a person that publishes any other publication, periodical, or circular, including a circular prepared for national distribution, a person that provides outdoor advertising, or a radio or television station, if that person in good faith and without knowledge of the falsity or deceptive character of the advertisement, publishes, causes to be published, or takes part in the publication of an advertisement that violates section 4 or 5.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.317 Display of total price of consumer item offered for sale; exceptions.

Sec. 7.

(1) Except as otherwise provided in subsection (2), a person shall display the total price of a consumer item offered for sale at retail at the place of the retail sale.

(2) Subsection (1) does not apply to any of the following:

(a) A consumer item that is sold by weight or volume and is not in a package or container.

(b) A consumer item sold in a coin-operated vending machine.

(c) Prepared food intended for immediate consumption, as defined in section 4g of the general sales tax act, 1933 PA 167, MCL 205.54g.

(d) A consumer item purchased by mail or through catalog order, or that is not otherwise visible for inspection by the consumer at the time of the sale, and that is ordered or requested by the consumer, if the price of the consumer item is on the consumer's written order or request or on a bill, invoice, or other notice that describes or names the consumer item and is enclosed with the consumer item.

(e) An unpackaged food item.

(f) A consumer item that has a total weight of not more than 3 ounces, a total volume of not more than 3 cubic inches, and a total price of not more than 30 cents.

(g) Live plants.

(h) Live animals.

(i) Motor vehicles.

(j) Motor vehicle parts.

(k) Packages of 20 or fewer cigarettes.

(l) Greeting cards that are sold individually and have a readable coded price on the back of the card.

(m) Merchandise that is ordered as a gift by a consumer and is sent by mail or other delivery service to a person other than the consumer by the retailer at the request of the consumer.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.318 Charging higher price than price displayed on item; violation.

Sec. 8.

(1) A person shall not knowingly charge or attempt to charge for a consumer item that is subject to section 7 a retail sale price that is higher than the price displayed for that item.

(2) It is not a violation of subsection (1) to charge a total price for a consumer item that is subject to section 7 that is less than the price displayed for that item.

(3) It is prima facie evidence of a violation of this section if a price a person charges or attempts to charge for a consumer item that is subject to section 7 is established by electronic identification or calculation by an automatic checkout system and that price exceeds the price displayed for that item.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.319 Applicability of section to certain sales; conditions; loss suffered by buyer; notification; recovery; action brought by buyer; section inapplicable to seller intentionally charging more than displayed price.

Sec. 9.

(1) Except as provided in subsection (4), this section applies to a sale at retail that meets all of the following conditions:

- (a) There is a price displayed for the consumer item.
 - (b) The sale is recorded by an automatic checkout system.
 - (c) The buyer is given a receipt that describes the item and states the price charged for the item.
- (2) Before bringing or joining in an action under section 12(2), within 30 days after purchasing a consumer item, a buyer who suffers loss because the price charged for the item is more than the price displayed for that item shall notify the seller in person or in writing that the price charged is more than the price displayed for that item. The notice shall include evidence of the loss suffered by the buyer. If the seller pays the buyer 1 of the following amounts within 2 days after the seller receives notification under this subsection, the buyer is barred from any further recovery for that loss:
- (a) Unless subdivision (b) applies, an amount equal to the difference between the price displayed and the price charged for the consumer item, plus an amount equal to 10 times that difference but that is not less than \$1.00 or more than \$5.00.
 - (b) If a loss is suffered by a buyer on 2 or more identical consumer items in a single transaction, an amount equal to the difference between the price displayed and the price charged for each of those identical items, plus an amount equal to 10 times that difference for 1 of the identical items but that is not less than \$1.00 or more than \$5.00.
- (3) If a seller does not pay a buyer who suffers a loss described in subsection (2) the amount described in that subsection for that loss, the buyer may bring or join in an action against the seller under section 12(2).
- (4) This section does not apply to a sale at retail in which the seller intentionally charges more for a consumer item than the price displayed for the item.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.320 Injunction; proceeding; assurance of discontinuance of act or practice; forwarding of notice of violation; civil fine; rules.

Sec. 10.

- (1) The attorney general may maintain an action to enjoin a continuing violation of this act. If the court finds that the defendant is violating or has violated this act, it shall enjoin the defendant from continuing that violation. It is not necessary that actual damages to a person are alleged or proved for a court to enjoin a defendant under this section.
- (2) The attorney general shall not institute a proceeding for an injunction under this section unless the attorney general has notified the defendant of his or her intention to seek an injunction if the defendant does not cease and desist or take positive action to cease and desist from continuing to act in a manner that violates this act. The attorney general must provide this notice at least 48 hours before instituting the proceeding. A court shall not issue the injunction if the defendant ceased, or took positive action to cease and desist, violating this act after receiving the notice from the attorney general.

(3) The attorney general may accept an assurance of discontinuance of an act or practice alleged to be a violation of this act from the person engaging in, or that was engaged in, that act or practice. An assurance of discontinuance shall be in writing and be filed with the clerk of the circuit court of the county in which the alleged violator resides or has its principal place of business. A filing fee is not required for the filing of an assurance of discontinuance with the clerk of the circuit court. An assurance of discontinuance shall be signed by the alleged violator and shall contain a statement describing each act or practice to which the assurance of discontinuance applies and the specific provisions of this act prohibiting that act or practice. An assurance of discontinuance is not considered an admission of any fact or issue at law.

(4) If a prosecuting attorney or law enforcement officer receives notice of an alleged violation of this act, of a violation of an injunction, order, decree, or judgment issued in an action brought under this section, or of an assurance of discontinuance given under subsection (3), he or she shall immediately forward written notice of the violation, and any information he or she has concerning the violation, to the office of the attorney general.

(5) A person that knowingly violates this act or the terms of an injunction, order, decree, or judgment issued under this section shall pay to the state a civil fine of not more than \$1,000.00 for the first violation and not more than \$5,000.00 for the second and any subsequent violation. For the purposes of this subsection, the court that issues an injunction, order, decree, or judgment under this section retains jurisdiction, the action is continued, and the attorney general may petition for recovery of the civil fine described in this subsection.

(6) The attorney general may promulgate rules to implement and administer this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.321 Public consumer education program; purpose; appropriation; internet website.

Sec. 11.

(1) For the fiscal year ending September 30, 2011, \$100,000.00 is appropriated from the general fund to the department of attorney general to develop and implement a public consumer education program to provide general information and advice regarding the advertising and pricing requirements of this act and the remedies available to consumers under this act.

(2) The attorney general shall establish and maintain an internet website available to the public that provides general information and advice regarding the advertising and pricing requirements of this act and the remedies available to consumers under this act.

(3) The appropriation made and the expenditures authorized under this section and the department of attorney general are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.322 Individual or class action.

Sec. 12.

(1) Whether or not a person seeks damages or has an adequate remedy at law, a person may bring an action to do either or both of the following if the attorney general or prosecuting attorney fails to initiate action within 60 days after receiving notice of an alleged violation of this act:

(a) Obtain a declaratory judgment that an act or practice violates this act.

(b) Enjoin by temporary or permanent injunction a person that is engaging or is about to engage in an act or practice that violates this act.

(2) Except as provided in section 9, a person that suffers loss as a result of a violation of this act may bring an individual or a class action to recover actual damages or \$250.00, whichever is greater, for each day on which a violation of this act is found, together with reasonable attorneys' fees that do not exceed \$300.00 in an individual action.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.323 Investigation by prosecuting attorney; action.

Sec. 13.

A prosecuting attorney may conduct an investigation under this act and may institute and prosecute an action under this act in the same manner as the attorney general.

History: 2011, Act 15, Eff. Sept. 1, 2011

445.324 Remedies; enactment of inconsistent ordinances or regulations.

Sec. 14.

(1) The remedies provided under this act are the exclusive remedies for violations of section 4, 7, 8, or 9.

(2) A city, village, township, or county shall not enact an ordinance or other regulation that is inconsistent with this act or with a rule promulgated under this act.

History: 2011, Act 15, Eff. Sept. 1, 2011

MINNESOTA

2007 Minnesota Statutes

325F.53 RETAIL MERCHANDISE; PRICE MARKING.

Subdivision 1. **Requirements.** In any store primarily engaged in the sale of grocery products at retail using an electronic or magnetic scanner to read the price of grocery products presented for check-out, every canned, bottled, boxed or bagged item of merchandise sold or offered for sale at retail shall have the selling price in arabic numerals clearly affixed to each item by a stamp, tag, label or other conspicuous marking device when electronically or magnetically scanned for check-out unless the price of the item is conspicuously displayed where the item is shelved and the store provides a means by which the customer may mark individual items. If a grocery product is canned, bottled, boxed or bagged, but sold in quantities of more than one in the containers in which the product came from the manufacturer or distributor, the price may be marked on the outer containers rather than on each individual item.

Subd. 2. **Nonapplication.** Subdivision 1 does not apply to:

- (a) food items intended to be consumed on or about the retail premises;
- (b) grocery products sold by a store primarily engaged in the sale of grocery products at retail which are under three cubic inches in size, weigh less than three ounces, and are priced under 30 cents;
- (c) grocery products sold by a store primarily engaged in the sale of grocery products offered for a period of seven days or less on sale in good faith at a price below the price such merchandise is usually sold for in the store, provided that the sale price is clearly indicated to the consumer by conspicuous sign or otherwise, located at or near the point of sale of such merchandise;
- (d) cigarettes, cigars, tobacco and tobacco products with a retail price of \$1 or less;
- (e) items actually sold through vending machines; and
- (f) any type of grocery product sold by a store primarily engaged in the sale of grocery products which is not marked in accordance with the uniform products code or any similar marking system designed to be scanned by electronic or magnetic check-out equipment.

Subd. 3. **Retailer exemptions.** In addition to the exemptions allowed in subdivision 2, a retailer may choose to not individually price mark not more than 25 classes of items or individual items which classes or items shall be set forth on a list posted in a conspicuous place in the retail store, and may choose to not individually price mark not more than 25 additional classes of items or individual items which are advertised or featured at a reduced price.

History: [1978 c 737 s 1](#)

325F.54 PENALTIES.

- (a) Knowingly and willfully failing to have a clearly readable price indicated on more than six individual items of the same commodity shall constitute a petty misdemeanor and each commodity not priced in compliance with sections [325F.53](#) to [325F.55](#) shall constitute a separate violation. Each day that a violation continues shall also constitute a separate violation;
- (b) Notwithstanding any other provision of law, any person may bring an action to enjoin a violation of sections [325F.53](#) to [325F.55](#).

History: [1978 c 737 s 2](#)

§ 75-27-51. Misrepresentation of price.

Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half (1/2) the height and width of the numerals representing the whole cent; provided, however, the provisions of this section shall not apply to signs and requirements enumerated in [Section 75-55-9](#), Mississippi Code of 1972. A person who is found guilty of the misrepresentation of the price of a commodity or the representation of a price in any manner calculated or tending to mislead or deceive an actual or prospective purchaser shall be assessed a civil penalty by the director or his designee in the amount of not less than One Hundred Dollars (\$100.00) for the first offense and not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each subsequent offense. Each violation shall constitute a separate offense. The commissioner or his designee shall afford the person an opportunity for a hearing to show cause why the penalty should not be assessed.

Sources: Codes, 1942, § 5132-25; Laws, 1964, ch. 221, § 25; Laws, 2000, ch. 326, § 3, eff from and after July 1, 2000.

MONTANA

http://mt.gov/dli/bsd/bc/pdf/wm_rules.pdf

24.351.301 NIST HANDBOOK 130 - UNIFORM LAWS AND REGULATIONS

(1) The bureau, with the advice and counsel of NIST, adopts the model regulations to provide accurate and adequate information on packages as to the identity and quantity of contents so that purchasers can make price and quantity comparison. The regulations are published in NIST Handbook 130, 2005 edition, part IV, subparts:

(a) A, Uniform Packaging and Labeling Regulation;

(b) B, Uniform Regulation for the Method of Sale of Commodities; and

(c) C, Uniform Unit Pricing Regulation.

(2) A copy of NIST Handbook 130 can be obtained from the United States Department of Commerce, National Institute of Standards and Technology, National Conference of Weights and Measures, Gaithersburg, Maryland 20899-0001.

NEW JERSEY

SUBCHAPTER 14. UNIT PRICING OF CONSUMER COMMODITIES IN RETAIL ESTABLISHMENTS

13:45A-14.1 General provisions

These regulations implement the Unit Price Disclosure Act, P.L.1975, c.242 (N.J.S.A. 56:8-25) and provide for the disclosure of information necessary to enable consumers to compare easily and effectively the retail prices of certain consumer commodities regardless of package size or quantity.

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13:45A-14.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Approved unit of measure” means the unit of weight, standard of measure or standard of count designated for each regulated consumer commodity in N.J.A.C. 13:45A-14.4.

“Consumer commodity” means any merchandise, wares, article, product, comestible or commodity of any kind of class produced, distributed, or offered for retail sale for consumption by individuals other than at the retail establishment, or for use by individuals for purposes of personal care or in the performance of services rendered within the household, and which is consumed or expended in the course of such use.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person, partnership, corporation or other organization engaged in the sale, display or offering for sale of consumer commodities at retail establishment whose combined total floor area, exclusive of office, receiving and storage areas, dedicated to the sale of consumer commodities exceeds 4,000 square feet or whose combined annual gross receipts from the sale of consumer commodities in the preceding year exceeded \$2 million, regardless of the square footage involved.

“Regulated consumer commodity” means those consumer commodities listed in N.J.A.C. 13:45A-14.4.

“Retail establishment” means any place of business where consumer commodities are exposed or offered for sale at retail.

“Retail price” means the total retail price of a consumer commodity, excluding sales tax.

“Unit price” means the retail sales price of a consumer commodity expressed in terms of the approved unit of measure.

“Wash load” means seven pounds of laundry by dry weight.

13:45A-14.3 Persons and operations exempted from complying with Unit Price Disclosure Act

(a) The following persons or entities shall be exempted from complying with this subchapter and the terms of the Unit Price Disclosure Act:

1. Any person owning and operating a single retail establishment with annual gross receipts from the sale of consumer commodities in the preceding year of not more than \$2 million.

2. Any person owning and operating a single establishment or a series of retail establishments each having a total floor space of 4,000 square feet or less regardless of the annual gross receipts in New Jersey from the sale of consumer commodities therein.

3. Any person owning and operating a retail establishment or series of retail establishments, wherein the combined annual gross receipts from the sale of food products, nonprescription drugs, personal care products and household service products is less than 30 percent of the total annual gross receipts of such retail establishment when calculated on an individual store basis or an aggregate basis combining all retail establishments, providing that the portion of that person's retail establishment selling consumer commodities regulated herein has either a total floor area of less than 4,000 square feet or annual gross receipts in New Jersey not exceeding \$2 million, or both.

4. Notwithstanding the provisions of (a)1, 2 and 3 above, any retail establishment, whether or not part of a series of retail establishments, which devotes less than five percent of its total floor area, exclusive of office, receiving and storage areas to the sale of consumer commodities and which derives less than five percent of its total gross receipt in New Jersey from the sale of consumer commodities.

13:45A-14.4 Regulated consumer commodities and their approved units of measure

(a) The following consumer commodities shall be considered regulated commodities. Wherever regulated commodities are exposed or offered for sale at retail, unless otherwise exempt from this subchapter, the unit price information required to be displayed shall be calculated on the basis hereinafter set forth. In each establishment, one approved unit of measure must be consistently used for the same commodity.

1. Dry units of measure shall be used for commodities sold according to net weight.

2. Liquid units of measure shall be used for commodities sold according to net weight, net contents or fluid ounces.

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3. Commodities not usually measured in dry or liquid units as stated in (a)1 and 2 above shall be sold in count, or square feet, whichever is appropriate and approved.

4. The same unit of measure shall be used for all sizes of the same commodity.

(b) The following consumer commodities shall be considered regulated consumer commodities with their approved unit of measure:

Commodity Approved Unit of Measure

1. Aluminum foils, wax and plastic wraps 100 sq. ft.
2. Baby food reconstituted ounce, pound, quart
3. Baking mixes and supplies, pancake mixes pound
4. Bread and pastry products: prepackaged outside of seller's premises pound
5. Bottle and canned beverages, carbonated and non-carbonated quart
6. Butter and oleomargarine pound
7. Candy (excluding 5 ounces or less) pound
8. Canned poultry, fish and meat products pound
9. Cocoa pound
10. Coffee (instant and ground) pound
11. Cereal pound
12. Cheese pound
13. Cold cuts; prepackaged meats and salads pound
14. Cookies and crackers pound

15. Condiments: ketchups, mustards, mayonnaise (including pickles, relishes, olives, etc.) ..	quart, pound
16. Deodorants, dry, spray, and roll-on	pound, pint
17. Detergents, soap, laundry products	quart, pound, per wash load
(dry bulk, liquid)	100 count
18. Flour	pound
19. Fruits and vegetables: jars, cans	pound
boxes (not fresh products)	pound
20. Grains and beans	pound
21. Hair conditioners, creme rinses, shampoos (not dyes)	pound, pint
22. Household cleaners, waxes, deodorizers	pound, quart
starches, bleaches	100 count
23. Instant breakfast food	pound
24. Jellies, jams, preserves	pound
25. Juices and juice drinks, fresh, canned	quart
26. Molasses	quart, pound
27. Mouthwash	quart
28. Non-alcoholic drink mixes	quart, pound
29. Oil (cooking)	quart
30. Peanut butter	pound
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31. Pet food and supplies (canned, dried, moist) limited to dog and cat food; kitty litter)	pound
32. Plastic and paper bags	100 count
33. Salad dressings	quart, pound
34. Salt	pound
35. Sanitary paper products including, but not limited to, napkins, facial tissues, paper towels, bathroom tissues	100 count
36. Sauces (tomato, spaghetti, meat)	quart, pound
37. Seasonings and spices, flavoring extracts, imitation flavorings	pint, pound
38. Shaving cream	pound
39. Snack foods	pound
40. Soups (canned, dried)	pound
41. Solid shortenings	pound
42. Spaghetti, macaroni, noodles and pasta	pound
43. Sugar	pound
44. Syrups	quart, pound
45. Tea	100 count, pound
46. Toothpaste	ounce, pound

13:45A-14.5 Exempt consumer commodities

(a) The following consumer commodities shall be deemed exempt consumer commodities and may be exposed or

offered for sale at retail without complying with the provisions of this subchapter:

1. Medicines sold by prescription only;
2. Vitamins;
3. Beverages subject to or complying with packaging or labeling requirements imposed under the Federal Alcoholic Administration;
4. Consumer commodities required to be marked individually with the cost per unit of weight pursuant to N.J.A.C. 13:47K-4;
5. Any consumer commodity offered for sale at a net quantity equal to the approved unit of measure for such commodity, provided that the retail price of the commodity is plainly marked on the commodity, or shelf molding;
6. Any consumer commodity offered for sale in one size only, and not comparable in form to any other product;

7. Any consumer commodity co-mingled with other consumer commodities for purposes of a one-price sale;
8. Any consumer commodity packaged to include more than one food product (i.e. T.V. dinner or mixed vegetables);
9. Bakery products sold in a service department which are not prepacked outside of the seller's premises;
10. Snack foods, including, but not limited to, cakes, candy, nuts, gum, chips and pretzels sold in packages weighing five ounces or less;
11. Spices, flavor extracts, imitation flavoring and boullion cubes sold in packages of five ounces or less in weight or fluid ounces;
12. Ice cream, ice milk, frozen yogurt, frozen desserts;
13. Frozen foods.

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(b) Any and all consumer commodities not specifically included in those regulated consumer commodities set forth in N.J.A.C. 13:45A-14.4 shall be deemed to be exempt from the provisions of L.1975, c.242, section 3 as though specifically listed as an exempt consumer commodity under this section.

13:45A-14.6 Calculation of the numerical unit price of a regulated consumer commodity

- (a) The unit price shall be calculated to the nearest cent for all regulated consumer commodities when the retail price per approved unit of measure is \$1.00 or more.
- (b) The unit price shall be calculated to the nearest cent or the nearest one-tenth of one cent for all regulated consumer commodities when the retail price per approved unit of measure is less than \$1.00.
- (c) For the purpose of determining the nearest cent or one-tenth of one cent, any calculation of the price per unit resulting in \$0.05 cents or \$0.005 cents per unit shall be rounded up to the next higher cent or one-tenth of one cent. Any such calculation resulting in less than \$0.05 cents or \$0.005 cents per unit shall be rounded down to the next lower cent or one-tenth cent. For example:
 1. \$1.005 per unit shall be marked \$1.01 per unit;
 2. \$1.004 per unit shall be marked \$1.00 per unit;
 3. 50.05¢ per unit shall be marked 50.1¢ per unit;
 4. 50.04¢ per unit shall be marked 50.0¢ per unit;
- (d) If the numerical unit price is \$1.00 or more, the unit price shall appear on the unit price label, sign, list or tag, expressed as dollars per unit. If the numerical unit price is less than \$1.00, the numerical unit price shall be expressed as cents per unit.

13:45A-14.7 Unit price labels approved for display

- (a) Whenever this subchapter requires that a unit price label be displayed in conjunction with the exposing or offering for sale at retail of a regulated consumer commodity, a sample format of the label shall be submitted to the director for approval prior to the display of the label.
- (b) In determining whether to approve the label, the Director shall be guided by the following standards:
 1. The shelf label shall be divided so as to create a left and right side; individual item labels may be divided vertically or horizontally into two portions. The amount of space devoted to the unit price and the retail price portion shall be equal. The size and conspicuousness of the numerals used to disclose the retail price shall be equal to or greater than that for the unit price. Where the retail price exceeds the unit price, the type face for the unit price shall not be less than 50 percent than that of the retail price.
 2. The left side or upper portion shall be known as the unit price side and shall contain the following information:
 - i. The term "unit price";
 - ii. The numerical unit price in bold figures;
 - iii. The approved unit of measure, including, if appropriate, the "ply" count or thickness of the regulated commodity.
 3. The right side or lower portion shall be known as the retail price side and shall contain the following information:

- i. The term “retail price,” “you pay” or some similar term;
- ii. The numerical retail price;
- iii. The quantity or size of the commodity being sold, for shelf labels only.
- 4. A description of the commodity being sold shall appear on the unit price shelf label.
- 5. Additional stock or code information may appear on the unit price shelf label.
- 6. All letters and numbers shall be in conspicuous, bold figures and shall be clear and legible. Handwritten labels shall be legibly printed.

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7. The overall design of the label shall convey all the information in a clear, readable and conspicuous fashion.

Any stock or code information shall not obscure or deemphasize the consumer information appearing on the unit price label.

13:45A-14.8 Unit price signs and unit price lists

(a) Whenever this subchapter permits a person to display a sign or list in conjunction with the exposing or offering for sale at retail of a regulated consumer commodity, a sample format of the sign or list shall be submitted to the director for approval prior to the display of the sign or list.

(b) In determining whether to approve the sign or list, the director shall be guided by the following standards:

- 1. The sign or list shall be divided so as to create a left and right side.
- 2. The left side of a sign or list shall be known as the unit price side and shall contain the following information:
 - i. The term “unit price”;
 - ii. The numerical unit price;
 - iii. The approved unit of measure including if appropriate the “ply” count or thickness of the consumer commodity.
- 3. The right side shall be known as the retail price side and shall contain the following information:
 - i. The term “retail price” or “you pay” or similar term;
 - ii. The numerical retail price;
 - iii. The quantity or size of the consumer commodity expressed in terms of the approved unit of measure.
- 4. A description of the commodity to be sold shall appear on the sign or list.
- 5. Additional stock or code information may appear on the unit price sign or list.
- 6. All letters or numbers shall be in conspicuous figures and shall be clear and legible.
 - i. The list shall display the unit price and retail price in numbers of equal size.
 - ii. The sign shall display the unit price and retail price in equal size if in numbers of less than five inches.

For

signs with numbers for the retail price larger than five inches, the unit price shall be no less than three inches

in size or one-half the retail price size, whichever is greater.

7. The overall design of the sign or label shall convey the consumer information in a clear, readable and conspicuous

fashion. Any stock or code information shall not obscure or deemphasize the consumer information.

13:45A-14.9 Unit price tags

Whenever these regulations require a unit price tag to be attached directly to the consumer commodity, a sample format of the tag shall be submitted to the director for approval prior to the display of the tag. In reviewing submitted price tags, the director shall apply those standards set forth in N.J.A.C. 13:45A-14.7 governing the format for unit price labels.

13:45A-14.10 Means of disclosing unit price information

(a) Whenever a regulated consumer commodity is exposed or offered for sale at retail, the unit price and retail price

shall be disclosed in the following manner:

1. If the commodity is displayed upon a shelf, the unit price label shall appear directly below the commodity, or, alternatively, a unit price tag shall be attached to the commodity. If the use of a unit price label or unit price tag is impossible or impractical, a unit price sign or list may be used provided such sign or list is conspicuously located at or near the commodity.

2. If the commodity is displayed in a special fashion such as in an end display, portable rack or large bin, the unit price tag shall be attached to the commodity, or, alternatively, a unit price sign or list shall be conspicuously placed at or near the point where the commodity is displayed. Nothing in this section should be construed to prohibit the use of hand-letter unit price signs on special displays so long as such signs contain the disclosures required in (a)1 above.

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3. If a commodity is refrigerated, the unit price label shall be affixed to the case, to a shelf edge, or a unit price label shall be attached to the commodity. In the event such attachments are not possible, then a unit price sign or list may be used if the sign or list is displayed in proximity to the articles for sale. Where such proximate display is impossible, a unit price list for such articles must be kept available and a sign posted at the site of the articles for sale as to such availability.

13:45A-14.11 Placement of unit price information on consumer commodities by nonretailers

Nothing in this subchapter shall prohibit a manufacturer, supplier or wholesaler from affixing to a consumer commodity the unit price information required by these regulations.

13:45A-14.12 Extension of time to comply with these regulations

On timely written application made within 90 days after final adoption of this subchapter, the director may grant additional time in which to comply with the regulations, providing good cause is shown for such an extension. In no event, however, shall an extension exceed 60 days.

13:45A-14.13 Nonintentional technical errors

For the purpose of enforcement of this subchapter, "nonintentional technical errors" shall mean inaccuracies in the unit

pricing information reflected upon a stamp, tag, label, sign or list where such defects have resulted from a malfunction of a printing press, electronic data processing equipment or other mechanical equipment used to produce such stamps, tags, labels, signs or lists, or from the mistake of a computer programmer or machine operator, where such malfunction or mistake was not within the knowledge or control of the owner or operator or management personnel of the store and where such owner or operator or management personnel could not with reasonable diligence have detected and corrected such errors.

13:45A-14.14 Waiver of unit price requirements

(a) Prior to the remodeling of a store or resetting of the shelves taking place, a retail establishment may request from the director, or his designee, permission to vary from the unit price procedure. Verbal permission to vary is acceptable provided a written confirmation follows same. A retail establishment, which has failed to obtain such permission, shall be in violation of this subchapter if it does not comply with the requirements herein while remodeling a store or resetting shelves.

(b) No waiver from compliance with this subchapter shall be granted to a retail establishment for the restocking of shelves.

13:45A-14.15 Penalties

Any violation of this subchapter shall be deemed a violation of the Consumer Fraud Act, N.J.S.A. 56:8-2, subjecting a violator to those sanctions established pursuant to said Act.

SUBCHAPTER 15. DISCLOSURE OF REFUND POLICY IN RETAIL ESTABLISHMENT

13:45A-15.1 Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context

indicates otherwise. "Merchandise" shall include any objects, wares, goods, commodities, or any other tangible item offered, directly or indirectly, to the public for sale.

"Proof of purchase" means a receipt, bill, credit card slip, or any other form of evidence which constitutes proof of purchase.

"Retail establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

13:45A-15.2 Unlawful practices

- (a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., failure to comply with the following shall be deemed unlawful thereunder:

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1. Every retail establishment shall conspicuously post its refund policy as to all merchandise exposed or offered

for sale at retail to members of the consuming public in the following manner:

- i. On a sign attached to the merchandise itself; or
- ii. On a sign affixed to each cash register or point of sale; or
- iii. On a sign so situated as to be clearly visible to the buyer from the cash register; or
- iv. On a sign posted at each store entrance used by members of the consuming public.

2. The sign required by (a)1 above to be posted in every retail establishment shall conspicuously disclose any and

all material conditions of, or qualifications to, its refund policy, including, without limitation, whether a refund

will be given:

- i. On merchandise which has been advertised as "sale" merchandise or "as is";
- ii. On merchandise for which no proof of purchase exists;
- iii. At any time, or only up to a specified time after the date of purchase;
- iv. In cash, as a credit to the account on which the purchase was debited, or as a store credit only.

13:45A-15.3 Exemption

(a) The provisions of N.J.A.C. 13:45A-15.2 shall not apply to any retail establishment that has a policy of, for a period not less than 20 days after the date of purchase, providing a cash refund for a cash purchase, or providing a cash refund or issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited, in connection with the return of any of its unused and undamaged merchandise.

13:45A-15.4 Remedy

In addition to any other remedy provided by the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any retail establishment which violates any provision of N.J.A.C. 13:45A-15.2 shall, for a period of up to 20 days after the date of purchase, provide any buyer who returns unused and undamaged merchandise with the option of either a cash refund, a credit to the account on which the purchase was debited, or a store credit.

N.J.S.A. 56:8-2.5. Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

NEW MEXICO

This rule was filed as 21 NMAC 16.6.

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 16 AGRICULTURAL WEIGHTS AND MEASURES
PART 6 PRICE REPRESENTATIONS

21.16.6.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture, MSC 3189, P. O. Box 30005, Las Cruces, New Mexico 88003-8005, Telephone: (505) 646-3007

[N, 7/1/97; Recompiled 12/31/01]

21.16.6.2 SCOPE: All retailers of consumer commodities.

[N, 7/1/97; Recompiled 12/31/01]

21.16.6.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Weights and Measures Law, Chapter 57, Article 17, Sections 1 through 19, New Mexico Statutes Annotated, 1978 Compilation.

[7/1/97; Recompiled 12/31/01]

21.16.6.4 DURATION: Permanent

[N, 7/1/97; Recompiled 12/31/01]

21.16.6.5 EFFECTIVE DATE: July 1, 1997

[N, 7/1/97; Recompiled 12/31/01]

21.16.6.6 OBJECTIVE: This part establishes the price representation requirements for all retail sales displays of consumer commodities sold by weight, measure, or count.

[7/1/97; Recompiled 12/31/01]

21.16.6.7 DEFINITIONS: [RESERVED]

21.16.6.8 [RESERVED]

21.16.6.9 PRICE REPRESENTATIONS: All retail sales displays of consumer commodities sold by weight, measure, or count shall include price information as provided below. It shall be the responsibility of the person or firm selling or offering the commodity for sale to furnish correct price information.

A. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be immediately adjacent to, of the same general design and style, and at least one-half (1/2) the height and width of the numerals representing the whole cent.

B. Price information may be displayed by means of a sign, which offers the price for one or more brands and/or sizes of a given commodity, by means of a sticker, stamp, sign, label, or tag affixed to the shelf upon which the commodity is displayed, or by means of a sticker, stamp, sign, label, or tag affixed to the commodity itself.

C. Where a sign providing price information for one or more sizes or brands of a given commodity is used, that sign shall be provided clearly and in a nondeceptive manner in a central location as close as practical to all items to which the sign refers.

D. If a single sign or tag does provide the price information for more than one brand or size of a given commodity, the following information shall be provided:

- (1) The identity and the brand name of the commodity;
- (2) The quantity of the packaged commodity if more than one package size per brand is displayed; and

(3) The total retail sales price.
[7/1/97; Recompiled 12/31/01]

21.16.6.10 [RESERVED]

HISTORY OF 21.16.6 NMAC:

Pre-NMAC History: The material in this Part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule No. DOA 73-5, Regulator Order No. 5, Method of Sale, filed 5/15/73.

NMDA Rule No. 73-5, Amendment No. 1, Regulatory Order No. 10, Fuelwood, Price Representation, filed 9/15/75.

NMDA Rule No. 95-9, Price Representations, filed 11/14/95.

History of Repealed Material: [RESERVED]

"THESE ARE NOT OFFICIAL RULES OF THE STATE OF NEW MEXICO UNDER THE PROVISIONS OF 14-4-7.1 AND 14-4-7.2 NMSA 1978. THE NEW MEXICO STATE RECORDS CENTER AND ARCHIVES ADVISES POTENTIAL USERS OF THESE RULES THAT THEY MAY NOT BE CORRECT, COMPLETE OR CURRENT. FOR AN OFFICIAL COPY OF A NEW MEXICO RULE CONTACT THE ISSUING AGENCY OR THE NEW MEXICO STATE RECORDS CENTER AND ARCHIVES, STATE RULES DIVISION, 1205 CAMINO CARLOS REY, SANTA FE, NM 87505, (505) 476-7907."

1. Weights and Measures Law

Chapter 57, Article 17, Sections 12 and 15, New Mexico Statutes Annotated, 1978 Compilation.

Sections:

57-17-12. Declarations on packages; declarations of unit price on random packages.

57-17-15. Misrepresentation of price.

57-17-12. Declarations of packages: declarations of unit price on random packages.

A. Except as otherwise provided by law or regulation of the board, a commodity in package form shall bear on the outside of the package a definite, plain and conspicuous declaration of net quantity of the contents in terms of weight, measure or count, and in the case of any package not sold on the premises where packed, the name and place of business of the manufacturer, packer or distributor; and the identity of the commodity in the package, unless the same can easily be identified through the wrapper or container.

B. In addition to the declarations required by this section, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

57-17-15. Misrepresentation of price.

Whenever a commodity or service is sold, offered or advertised for sale by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive a purchaser.

New York

Weights and Measures Law Article 16 of the Agriculture and Markets Law and Related Sections Issued September 22, 2006

Section 197-b. Retail Pricing Accuracy.

1. Definitions.

- a. "Retail store" shall mean a store that sells stock-keeping units directly to consumers and charges or is liable for the collection of sales tax. For the purposes of this section the term "retail store" shall include those stores that use universal product code (UPC) scanners or price-look-up (PLU) codes in checkout systems or use manual pricing of items.
- b. "Pricing accuracy inspection" shall mean an inspection of a retail store for the purpose of ensuring that customers are charged the correct price for the items they purchase.
- c. "Price charged" means the price a customer is charged for an item. For prices determined by an automated checkout device, the price charged means the price on the receipt issued to the consumer after the final total has been determined, whether the item is scanned or actually purchased, the device is computing or recording while in training mode, or by using a hand-held device connected to a store's database.
- d. "Stock-keeping unit" means each group of items offered for sale of the same brand, quantity of contents, retail price, and having different colors, flavors, or varieties.
- e. "Retail price" means the lowest advertised, written, posted, or marked price of a stock-keeping unit.
- f. "Overcharge" means a price charged that is higher than the retail price.
- g. "Undercharge" means a price charged that is lower than the retail price.
- h. "Large overcharge" means an error of twenty-five cents on any individual item up to two dollars and fifty cents and ten percent thereafter.

2. Pricing requirements. A retail store shall:

- a. Display the retail price of each stock-keeping unit offered for sale, either on each unit or on easy to read shelf tags, or signs, located directly above or below or immediately adjacent to every stock-keeping unit or group of stock-keeping units of the same brand, size and price.
- b. Assure that the price charged after the final total has been determined is equivalent to the retail price.
- c. If a UPC scanner system is used to determine the price charged, provide the appropriate inspection official access to the checkout system in use at such retail store to verify the price charged for items included in a pricing accuracy inspection. Access shall be provided to the system either in normal operating mode, in training mode, or through a hand-held or other device tied to the store's database.
- d. Post, in a conspicuous place, the refund policy of such retail store in the event of an overcharge.

3. Test procedures and accuracy requirements.

- a. The commissioner shall, by regulation, adopt test procedures utilizing randomized sampling techniques. Such procedures shall be consistent with the examination procedure for price verification developed by the national conference on weights and measures and published in the national institute of standards and technology handbook one hundred thirty. For purposes of this section, pricing accuracy inspections shall, to the extent possible, be conducted at a time and in a manner that does not interrupt the normal flow of retail business at the retail store.
- b. A retail store at least three hundred square feet in size shall be deemed in compliance if ninety-eight percent of the items in the sample selected are accurately priced. For purposes of this section retail stores that are less than three thousand square feet and employ a manual pricing system shall be deemed in compliance if, effective June first, two thousand seven through May thirty-first, two thousand eight, at least ninety-six percent of the items in the sample selected are accurately priced and beginning on June first, two thousand eight at least ninety-eight percent of the items in the sample selected are accurately priced.

c. In addition to establishing a standard frequency of inspection consistent with the provisions of paragraph a of this subdivision, the commissioner or a weights and measures official may conduct inspections of individual items in response to consumer complaints or as a follow-up on items ordered to be corrected in a previous inspection.

4. Enforcement procedures.

a. The commissioner or a weights and measures official shall advise the operator of the retail store of any pricing error encountered in an inspection. If the correction cannot be made immediately, then, the commissioner or a weights and measures official shall issue a stop removal order for items subject to overcharges and such stockkeeping units shall be removed from sale until correction is made.

b. Upon finding a violation of this section, the commissioner or the municipal director of weights and measures may impose civil penalties as prescribed in section thirty-nine of this chapter. Such penalty shall not exceed three hundred dollars per violation for violations assessed during an initial inspection in a calendar year and shall not exceed six hundred dollars per violation for violations assessed in a second or subsequent inspection during a calendar year. In determining the amount of any civil penalty imposed, the magnitude of the errors, corrective action taken by the retail store, history of such prior conduct, or other relevant information shall be considered. Penalties may only be imposed for:

(1) Overcharges found in a sample selected using the procedures adopted pursuant to subdivision three of this section, when overcharges number more than two percent of the sample. Each such overcharge may be considered a separate violation provided, however, that any overcharge for a single stock-keeping unit that includes more than one item in such unit shall count as a single violation and not as separate violations for each item in the stock-keeping unit.

(2) A large overcharge found on an individual item.

(3) An overcharge verified in response to a consumer complaint.

(4) Overcharges found on follow-up inspections of items ordered corrected.

(5) Failure to disclose the retail price of a stock-keeping unit pursuant to paragraph a of subdivision two of this section.

(6) Failure to conspicuously post a refund policy pursuant to paragraph d of subdivision two of this section.

5. Local pricing laws. Nothing in this section shall be construed to prohibit a political subdivision of the state from

continuing to implement and enforce any local pricing law or regulation in effect prior to the effective date of this section. Where a political subdivision has a local pricing law in effect prior to the effective date of this section, the provisions of this section shall have no force and effect until such time as the political subdivision repeals its local pricing law. Any political subdivision of the state not having any local pricing law or regulation in effect prior to the effective date of this section shall adopt and implement the pricing accuracy provisions set forth in this section or by regulations adopted pursuant to this section.

RELATED LAWS

From Agriculture and Markets Law Article 17

Section 214-h. Unit pricing

1. Consumer information required. Each person who sells, offers or exposes for sale at retail in a food store a consumer commodity shall disclose to the consumer the unit price and the total price of the commodity as provided in this section.

2. Definitions. a. "Consumer commodities" shall mean the following, however packaged or contained:

(1) food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto for any purpose; and

(2) napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, disposable plates; and

(3) detergents, soaps and other cleansing agents; and

(4) non-prescription drugs, female hygiene products and toiletries.

b. "Retail store" shall mean a store which sells consumer commodities at retail, such store is not primarily engaged in the sale of food for consumption on the premises, or which is not primarily engaged in a specialty trade which the commissioner determines, by regulation, would be inappropriate for unit pricing.

An establishment which sells consumer commodities only to its members shall be deemed to be included

within this definition unless the members must pay a direct fee to qualify for membership and the establishment is not required to collect sales tax on transactions with its members, pursuant to article twenty-eight of the tax law.

c. "Unit price" of a consumer commodity shall mean the price per measure.

d. "Price per measure" shall mean:

- (1) price per pound for commodities whose net quantity is expressed in units of weight, except for such commodities whose net weight is less than one ounce which shall be expressed as price per ounce and commodities in powdered form which purport to be or are represented for special dietary use solely as a complete or partial substitute for human milk which shall be expressed as price per reconstituted fluid ounce; provided that the same unit of measure is used for the same commodity in all sizes;
- (2) price per pint or quart for commodities whose net quantity is stated in fluid ounces, pints, quarts or gallons or a combination thereof, except for such commodities in concentrated liquid or ready to feed form which purport to be or are represented for special dietary use solely as a complete or partial substitute for human milk which shall be expressed as price per reconstituted fluid ounce for commodities in concentrated liquid form and price per fluid ounce for commodities in ready to feed form; provided that the same unit of measure is used for the same commodity in all sizes sold in the retail establishment;
- (3) price per one hundred for commodities whose net quantity is expressed by count, except as otherwise provided by regulation;
- (4) price per foot for commodities whose net quantity is stated in units of length, except for such commodities whose net quantity exceeds one hundred feet, which shall be expressed as price per one hundred feet, and the "ply" count, if any, provided that the same unit of measure is used for the same commodity in all sizes;
- (5) price per square foot or square yard, as appropriate, for commodities whose net quantity is expressed in units of area and the "ply" count, if any, provided that the same unit of measure is used for the same commodity in all sizes; or

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(6) such other price per measure, including metric equivalents of the customary measures, as the commissioner shall by regulation permit. The commissioner shall establish such metric equivalents whenever he determines that any commodity subject to the provisions of this section is being sold, offered or exposed for sale by metric measure. 3. Exemptions. a. The provisions of this section shall not apply to the following consumer commodities:

- (1) food sold for consumption on the premises;
- (2) prepackaged food containing separate and identifiable kinds of food segregated by physical division within the package; and any other foods for which the commissioner determines, by rules and regulation, that unit pricing would not be meaningful;
- (3) any food which is primarily or exclusively a gourmet or specialty food, provided that the commissioner determines by regulation that unit pricing would be impractical for such food, and provided further that such food is segregated and displayed as a gourmet or specialty food;
- (4) any commodity whose net quantity as offered for sale is one pound, one ounce, one pint or quart, one hundred count, one foot, one hundred feet, one square foot, one square yard or equivalent metric units established by the commissioner, provided that it has the retail price marked plainly thereon;
- (5) milk, and other similar low fat products such as two percent milk, one percent milk and skim milk, cream, mellorealm and vegetable oil blend whose net quantity as offered for sale is one half pint, one pint, one quart, one half gallon, one gallon, one half liter, one liter; frozen desserts such as ice cream, light ice cream, low-fat ice cream, fatfree ice cream, sherbet, sorbet, frozen yogurt, and any other product similar in appearance, odor and taste to such products whose net quantity as offered for sale is one half pint, one pint, one quart, one half gallon, one gallon, and multiples of quarts and gallons; and butter vegetable spread, oleo margarine and margarine whose net quantity is one fourth pound, one half pound, one pound, or multiples of one pound, one hundred twenty-five grams, two hundred fifty grams, five hundred grams, or multiples of five hundred grams; flour whose net quantity as offered for sale is in five or ten pound bags;
- (6) fresh food produce.

b. The provisions of this section shall not apply to any retail store having had annual gross sales of consumer commodities in the previous calendar year of less than two and one-half million dollars.

4. Means of disclosure. A consumer commodity sold, or offered for sale or exposed for sale, subject to this section, shall have the unit price and total price disclosed to the consumer in one of the following ways:

- a. if the item is conspicuously visible to the consumer, by the attachment of a stamp, tag or label directly under the item on the shelf on which the item is displayed, or, in the case of refrigerated items not displayed on shelves, in a manner to be prescribed by regulation; or
 - b. if the item is not conspicuously visible to the consumer, by a sign or list conspicuously placed near the point of procurement, or by affixing the unit price and total price on the commodity itself.
5. The commissioner may promulgate regulations to effectuate this section.
6. Nothing in this section shall be construed to conflict with or limit section one hundred ninety of this chapter.
7. Violations and penalties. a. A violation of this section shall be subject to the applicable penalties of this chapter except for the penalties specified in section forty-one thereof.
- For purposes of this section, each group of identical consumer commodities for which on any single day the total selling price or price per measure is not displayed in accordance with this section or the regulations promulgated thereunder shall be considered a violation of this section. Improper unit pricing caused by nonintentional technical errors, however, shall not constitute a violation.
- b. Each group of units not unit priced or improperly unit priced shall constitute a violation. Each individual unit, however, not unit priced or improperly unit priced shall not constitute a violation unless displayed alone.
- c. Each day a violation is continued shall constitute a separate violation.
- d. The provisions of this section and the regulations promulgated hereunder may be enforced concurrently by the director of a municipal consumer affairs office or a municipal director of weights and measures.
8. Preemption. Except as provided in paragraph b of subdivision three of this section, any local law, ordinance, rule or regulation relating to labeling, displaying or other disclosure of the price per measure of any commodity must be consistent with the provisions of this section and the rules and regulations adopted hereunder.

UNIT PRICING

New York State Weights and Measures Regulations 1 NYCRR Part 345 Issued February 4, 2002

(Statutory authority: Agriculture and Markets Law, §§ 17; 18; 214-h)

Sec.

- 345.1 Purpose
- 345.2 Means of disclosure of unit pricing information
- 345.3 Calculation and display of unit price
- 345.4 Price per measure
- 345.5 Exemptions
- 345.6 Nonintentional technical errors
- 345.7 Multiple pricing

§345.1 Purpose.

(a) The purpose of this Part is to effectuate the provisions of Agriculture and Markets Law, section 214-h, which related to providing consumers with information needed to effectively compare retail product prices by instituting unit pricing of certain consumer commodities.

§345.2 Means of disclosure of unit pricing information.

All consumer commodities required to be unit-priced shall have the unit price and total selling price disclosed to the consumer in the following manner:

(a) If the item is displayed upon a shelf and conspicuously visible to the consumer, by attaching a stamp, tag or label on the shelf edge directly beneath the item offered for sale. If such attachment is impossible, a stamp, tag or label may be placed adjacent to or on the consumer commodity to which it relates.

(b) If the item is conspicuously visible to the consumer but is not displayed upon a shelf, such as items offered for sale in aisle displays, baskets, portable racks, or bins, by:

(1) affixing the unit price and total selling price on the commodity itself; or

(2) by placing a sign or list at or near the point at which the item is offered or exposed for sale and in such a manner that the unit pricing information contained thereon is plainly visible from such point.

(c) If the item is refrigerated and conspicuously visible to the consumer, but not displayed upon a shelf, by:

(1) affixing the unit price and total selling price on the commodity itself;

(2) by placing a sign or list at or near the point at which the item is offered for sale and in such manner that the unit pricing information contained thereon is plainly visible from such point; or

(3) by attaching a stamp, tag or label to the refrigerated case or to a refrigerated case divider, as appropriate, directly behind and above the item offered for sale.

(d) If the item is refrigerated, conspicuously visible to the consumer, and displayed upon shelves, the provisions of subdivision (a) of this section shall govern.

(e) If the item is not conspicuously visible to the consumer, by placing a sign or list at the point of procurement and in such a manner that the unit pricing information contained thereon is plainly visible from such point, or by affixing the unit price and total selling price upon the commodity itself.

§345.3 Calculation and display of unit price.

(a) The unit price shall be expressed in terms of dollar or cents, as applicable. If the unit price is one dollar or over, it is to be rounded off and stated to the nearest full cent, provided that where the unit price is rounded off from .005 cent, it shall be stated to the next highest cent. If the unit price is less than one dollar, it is to be rounded off and stated to the nearest cent and expressed by “¢”, “cents” or “cnts.”

(b) All information required to appear on a stamp, tag, label, sign or list for purposes of disclosing the unit price of a consumer commodity shall be clear and conspicuous.

(c) If the unit pricing information is displayed on a stamp, tag or label as required by subdivision (a) of section 345.2 of this Part, or as permitted by paragraph (3) of subdivision (c) of such section, the stamp, tag or label shall contain the following information in the manner indicated:

(1) the total selling price in type no smaller than 3/8 of an inch in height;

(2) the unit price in type no smaller than 3/16 of an inch in height;

(3) the words “Unit Price” above or below the numerical price per measure;

(4) the unit of measure;

(5) the words “You Pay,” “Retail Price,” “Total Price,” “Item Price,” or other words of similar meaning as may be approved by the commissioner, above, below or adjacent to the total selling price of the consumer commodity displayed for sale;

(6) the identity of the consumer commodity to which the information on each stamp, tag or label relates, including the common name and brand name of the product and the quantity of the item;

(7) the information required by paragraphs (3), (4), (5) and (6) of this subdivision in type no smaller than 1/16 of an inch;

(8) the unit price, the unit of measure, the words "Unit Price," the total selling price and the words required by paragraph (5) of this subdivision printed in a color that contrasts conspicuously with the background color of the stamp, tag or label;

(9) the background of the stamp, tag or label upon which the unit price and the unit of measure are placed, in a color which contrasts conspicuously with the background color upon which the total selling price of the item is placed.

(d) If the unit price and total selling price information is disclosed by means of a sign or list permitted by paragraphs (b)(2), (c)(2) and (e) of section 345.2 of this Part, all the information required to be contained on a stamp, tag or label pursuant to subdivision (c) of this section shall be included on such sign or list. Such sign or list shall be located near the point at which the item is displayed for sale, and may reflect the unit pricing information relating to the consumer commodities included thereon in one of the following manners:

(1) By affixing to the sign or list stamps, tags, or labels designed in the same manner as prescribed by subdivision (c) of this section, provided the information thereon is plainly visible and easily readable from the point at which the item is displayed for sale, and provided that the stamps, tags, or labels are arranged upon the sign or list in such a manner as to clearly indicate to which consumer commodity each one relates.

(2) By means of a vertical list in alphabetical order according to the brand name of the product with the common name, quantity, unit price, unit of measure and price of the item indicated, in that order, to the right of the brand name of the product. If this method of disclosure is used, all required information shall be printed in type large enough to be easily readable from the point at which the item is displayed for sale. The information shall be printed in a color which contrasts conspicuously with its background, and the background upon which is reflected the numerical unit price shall be in a color which contrasts conspicuously with the background upon which is reflected the numerical selling price.

(e) If the unit price information is disclosed by affixing the unit price and total selling price upon the commodity itself as permitted under section 345.2 of this Part, all the information required to be contained on the stamp, tag, or label pursuant to subdivision (c) of this section shall be indicated upon the commodity and in the same manner, except that the identity of the consumer commodity need not be included and the color of the background upon which is printed the numerical unit price and unit of measure shall not be required to contrast with the background color upon which is reflected the total numerical selling price of the item.

(f) Logistical information such as order codes may appear on the stamp, tag, or label at the option of the retailer, provided that any such logistical information be no more prominent than and in type no larger than the type used to reflect the information required by subdivision (c) of this section. Such logistical information shall not in any way obscure, de-emphasize or confuse the required unit pricing information.

(g) The format indicated in the following example is acceptable for use in designing a stamp, tag, or label for use in disclosing unit pricing information.

UNIT PRICE	RETAIL PRICE
77.3¢	29¢
PER QUART 24589763	DEES ORANGE DRINK 12 FL. OZ.

(h) A sample, in duplicate, of the format of the stamp, tag, or label proposed to be used to disclose unit pricing information shall be submitted to the commissioner for approval prior to its use in any store or stores.

§345.4 Price per measure.

In addition to the price per measure provided pursuant to section 214-h(2)(d) of the Agriculture and Markets Law, the following shall also be permitted:

(a) Price per dozen for commodities whose net quantity is commonly expressed by half dozen, dozen or a combination thereof, provided that the same unit of measure is used for the same commodity in all sizes.

(b) Price per 100 square feet, and the ply count, if any, for commodities whose net quantity is expressed in units of areas where the net quantity exceeds 100 square feet, provided that the same unit measure is used for the same commodity in all sizes.

(c) Price per gallon in alternative to price per pint or quart for commodities whose net quantity is stated in fluid ounces, pints, quarts, or gallons, provided that the same unit of measure is used for the same commodity in all sizes.

§345.5 Exemptions.

(a) In addition to those consumer commodities exempted from unit pricing requirements pursuant to section 214-h(3) of the Agriculture and Markets Law, the following consumer commodities shall not be subject to unit pricing requirements:

(1) Spices, flavor extracts and imitation flavorings, and bouillon cubes, where the total content of the package or container weighs three ounces or less.

(2) Snack foods such as cakes, candies, chips and nuts offered for sale in single packages weighing five ounces or less.

(3) Any food item displayed for sale in bulk and which is packaged for and served directly to the consumer by a store employee, provided that such food item is segregated and displayed as a specialty food.

(4) Any food item for which there is no like or similar product to which it might be compared within the store, provided that such food item is segregated and displayed as a gourmet or specialty food.

(5) Any commodity whose net quantity as offered for sale is one dozen, or 100 square feet, provided that it has the retail selling price marked plainly thereon.

(6) Any fluid milk, or cream, or mellorean product for which the capacity of the container used for the sale of such product is prescribed by section 191 of the law, where the net quantity as offered for sale is one-half pint, one pint one quart, three quarts, one-half gallon or one gallon, provided that the retail price is marked plainly thereon or displayed on a sign or list at or near the point at which the item is offered or exposed for sale and in such a manner that the retail price contained thereon is plainly visible from such point.

(7) Any frozen dessert for which the capacity of the containers used for the sale of such product is prescribed by section 193-d of the law, where the net quantity as offered for sale is one-half pint, one pint, one-half quart, one quart, one-half gallon or one gallon, provided that the retail price is marked plainly thereon or displayed on a sign or list at or near the point at which the item is offered or exposed for sale and in such a manner that the retail price contained thereon is plainly visible from such point.

(8) Any milk product or product in semblance thereof which is required by law or regulation to be sold by net weight and in prescribed units of weight where the net quantity as offered for sale is one-half pound, one pound or two pounds, provided that it has the retail price marked plainly thereon or displayed on a sign or list at or near the point at which the item is offered or exposed for sale and in such a manner that the retail price contained thereon is plainly visible from such point.

§345.6 Non-intentional technical errors.

For the purpose of the enforcement of this Part, *non-intentional technical errors* shall mean inaccuracies in the unit pricing information reflected upon a stamp, tag, label, sign or list where such defects have resulted from a malfunction of a printing press, electronic data processing equipment or other mechanical equipment used to produce such stamps, tags, labels, signs, or lists, or from the mistake of a computer programmer or machine operator, where such malfunction or mistake was not within the knowledge or control of the owner or operator or management personnel of the store and where such owner or operator or management personnel could not with reasonable diligence have detected and correction such errors.

§345.7 Multiple pricing.

Where identical consumer commodities are offered or exposed for sale at two or more prices within a store, the unit pricing information relating to such multiple priced items shall be calculated and displayed based upon either (a) each price at which the item is offered or exposed for sale or (b) the highest price at which the item is offered or exposed for sale. Where a consumer commodity is unit priced at its highest price only, a statement clearly indicating consumer commodities are available at more than one price and that the unit pricing information is based upon the highest selling price shall be included upon the sign required by subdivision (i) of section 345.3 of this Part.

NEW HAMPSHIRE

TITLE XL AGRICULTURE, HORTICULTURE AND ANIMAL HUSBANDRY

CHAPTER 438 STANDARDS FOR WEIGHTS AND MEASURES

Section 438:26-a

438:26-a Grocery Stores; Prices. –

I. In this section, the term "grocery store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged, non-potentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food beverage vending machines.

II. Any person who offers items for sale in a grocery store shall mark clearly upon the package of each item sold in packaged form the price of such item, or shall place under the shelf containing the item a uniform shelf tag, or a larger sign indicating item price.

III. A uniform shelf tag shall include:

(a) The regular price of each individual item. The price numbers shall be at least 7/16 of an inch in height;

(b) The unit price; and

(c) The name of the item or a description of the item.

IV. The following items shall not require individual prices:

(a) Cold beverages.

(b) Snack items packaged in individual sizes and designed for immediate consumption.

V. The commissioner shall adopt rules, pursuant to RSA 541-A, regarding:

(a) The pricing of items by grocery stores under this section.

(b) The definition of snack items excepted from the requirements of this section under subparagraph IV(b).

Source. 1990, 120:1, eff. Jan. 1, 1991.

TITLE XL AGRICULTURE, HORTICULTURE AND ANIMAL HUSBANDRY

CHAPTER 438 STANDARDS FOR WEIGHTS AND MEASURES

Section 438:22

438:22 Declarations of Unit Price on Random Packages. – In addition to the declarations required by RSA 438:21, any commodity in package form, the package being one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

Source. 1985, 72:1, eff. July 1, 1985.

TITLE XL AGRICULTURE, HORTICULTURE AND ANIMAL HUSBANDRY

CHAPTER 438 STANDARDS FOR WEIGHTS AND MEASURES

Section 438:40

438:40 Offenses and Penalties. –

I. It shall be unlawful for any person to:

(a) Use or have in possession for the purpose of using for any commercial purpose specified in RSA 438:10, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

(b) Use or have in possession for the purpose of current use for any commercial purpose specified in RSA 438:10, a weight or measure that does not bear a seal or mark such as is specified in RSA 438:14, unless such weight or measure has been exempted from testing by the provisions of RSA 438:10 or by a rule of the commissioner adopted under the authority of RSA

438:8 or unless the device has been replaced in service as provided by a rule of the commissioner adopted under the authority of RSA 438:8.

(c) Dispose of any rejected or condemned weight or measure in a manner contrary to law or rule.

(d) Remove from any weight or measure, contrary to law or rule, any tag, seal, or mark placed thereon by the appropriate authority.

(e) Sell, or offer or expose for sale, less than the quantity represented of any commodity, thing, or service.

(f) Take more than the quantity he represents of any commodity, thing, or service, when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.

(g) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or rule.

(h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.

(i) Use commercially any device which has not been licensed in accordance with RSA 438:7, VI.

(j) Violate any provision of RSA 438 or of the rules adopted under the provisions of RSA 438.

II. Any person who, by himself or by his servant or agent, recklessly performs any act prohibited, other than by rule, under this chapter shall be guilty of a misdemeanor. Any individual, acting as the servant or agent of another person, who knowingly performs any act prohibited, other than by rule, under this chapter shall be guilty of a misdemeanor. A subsequent violation of this chapter perpetrated by anyone other than a natural person shall be a felony.

III. Any person who, by himself or by his servant or agent, or as the servant or agent of another person violates any rule adopted under RSA 438:8 shall be guilty of a violation.

IV. In addition to any other penalty imposed under this chapter, any person who violates any provision of RSA 438, or any rule or order of the commissioner, may be subject to the imposition of an administrative fine levied by the commissioner, not to exceed \$1,000 for each violation.

Source. 1985, 72:1. 1989, 324:15, 16. 1990, 217:1. 1994, 100:7, eff. July 10, 1994.

Chapter 616. General and Miscellaneous Provisions

UNIT PRICING

616.850 Definitions for ORS 616.850 to 616.890. As used in ORS 616.850 to 616.890, unless the context requires otherwise:

(1) “Consumer commodity” means any of the following items:

(a) Food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances or ingredients to be added thereto for any purposes;

(b) Paper products, including napkins, towels, facial tissues, toilet tissues, disposable plates and cups;

(c) Wrapping products, including those made of paper, plastic and aluminum; and

(d) Soaps, detergents, cleaning aids, deodorizing aids, waxes and wax removers, disinfectants, polishes and polish removers, bleaches, scouring pads and all other laundry and household cleaning products.

(2) “Grocery store or food market” means any retail establishment or department thereof:

(a) That sells consumer commodities, the gross annual receipts from the sale of which is \$1.5 million or more; and

(b) That is part of a chain system or contracts with a supplier or cooperative that utilizes common purchasing, warehousing or distribution facilities, if the chain, cooperative or supplier has computer hardware for inventory control, ordering or pricing labels.

(3) “Package” means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers.

(4) “Unit retail price” means the retail price of the contents of a package of any consumer commodity, expressed in terms of the retail price of such contents per single whole unit of weight, volume, measure or count, computed to the nearest 10th of a cent when less than \$1 and to the nearest cent when \$1 or more. [1977 c.181 §3; 1979 c.827 §1; 2007 c.71 §185]

616.855 Items exempt from unit pricing requirements. ORS 616.850 to 616.890 do not apply to:

(1) Fresh fruits and vegetables.

(2) Products sold in quantities of one avoirdupois ounce, or 28.35 grams or one fluid ounce, or less.

(3) Packaged consumer commodities that may be lawfully sold only upon the written or oral direction of a licensed practitioner. As used in this subsection, “practitioner” has the meaning for the term provided in ORS 689.005.

(4) Alcoholic beverages that are subject to the Federal Alcohol Administration Act.

(5) Tobacco, cosmetics and personal care products, hardware and household equipment.

(6) Products sold in one size limit only, or in such manner that the State Department of Agriculture determines that no comparison is meaningful.

(7) Consumer commodities sold for immediate consumption on the premises.

(8) Patent or proprietary medicines.

(9) Products sold through coin-operated vending machines or products sold by manual distribution from mobile catering units to individual consumers. [1977 c.181 §4; 1979 c.777 §57; 1979 c.785 §6; 1979 c.827 §4; 2009 c.175 §7]

616.860 Unit pricing of packaged consumer commodities required; explanation to consumers. (1) Except as provided in ORS 616.855 and 616.865, no person shall sell or offer for retail sale at a grocery store or food market any packaged consumer commodity unless there is clearly displayed upon the commodity package or at a place in reasonable proximity to where the commodity is offered for sale a statement of the unit retail price of the commodity pursuant to ORS 616.870 and the total retail price of the commodity.

(2) If the tag, stamp, sign or label used to display the unit retail price is not affixed directly to the consumer commodity, the tag, stamp, sign or label shall also contain the brand name and the quantity or size of the product by weight, measure or count.

(3) Whenever the State Department of Agriculture adopts administrative rules under ORS 616.875 wherein formats and methods to explain unit pricing are prescribed, such explanations of the use of unit pricing shall be provided and displayed by each grocery store. [1977 c.181 §5; 1979 c.827 §2]

616.865 Temporary sale items exempt. When a packaged consumer commodity is sold or offered for sale at retail at a price lower than the price at which the commodity is regularly sold or offered for sale, the retail seller is exempt from the requirements of ORS 616.860 (1) as to such commodities unless the lower price is to be in effect for more than 30 consecutive business days. [1977 c.181 §6]

616.870 Prescribed pricing by units of measurement. Retail sellers of packaged consumer commodities shall express unit retail price statements in terms of the price per single whole unit of weight, volume, measure or count as prescribed by administrative rules adopted by the State Department of Agriculture under ORS 616.875 for particular consumer commodities or groups for consumer commodities. [1977 c.181 §7; 1979 c.827 §3]

616.875 Rules; retail establishments presumed subject to unit pricing until exempted by department. (1) In accordance with any applicable provision of ORS chapter 183, the State Department of Agriculture may promulgate rules for the administration and enforcement of the provisions of ORS 616.850 to 616.890.

(2) A retail establishment or department thereof shall be considered to have gross annual receipts from the sale of consumer commodities of \$1.5 million or more as described in ORS 616.850 (2), unless the establishment demonstrates to the department that it does not. The determination of the director shall be deemed a final order not in a contested case for purposes of judicial review under ORS chapter 183. [1977 c.181 §8; 2009 c.175 §8]

616.880 Written warning notice for minor violation. Nothing in ORS 616.850 to 616.890 shall be construed as requiring the State Department of Agriculture to cite incidental or minor violations of ORS 616.860 to 616.870 whenever the department believes that the public interest will be served adequately in the circumstances by issuance of an alleged written warning notice. Each such notice issued shall include the name and address of the grocery store or food market, the date of the notice issuance, a description of the alleged violation and a statement of the penalties for a continued course of violation. [1977 c.181 §9; 2009 c.175 §9]

616.885 [1977 c.181 §10; 1991 c.734 §54; renumbered 616.996 in 2001]

616.890 Short title. ORS 616.850 to 616.890 may be cited as the Unit Pricing Law. [1977 c.181 §2; 2009 c.175 §10]

616.900 [1989 c.1025 §8; 1991 c.734 §55; 2001 c.320 §9; repealed by 2001 c.320 §10]

616.990 [Subsection (2) of 1959 Replacement Part renumbered as part of 561.990; subsection (3) enacted as 1961 c.637 §16; 1965 c.107 §3; subsection (10) enacted as 1971 c.176 §9; repealed by 1973 c.227 §26]

PENALTIES

616.992 General criminal penalty. The violation of any provisions of this chapter or of any rule adopted under this chapter is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense. [1973 c.227 §28; 2009 c.11 §79; 2009 c.175 §1]

616.994 Criminal penalty for open date labeling law violations. Violation of any provision of ORS 616.800 to 616.835 or of any rule promulgated pursuant thereto is a Class B misdemeanor. [1973 c.173 §10]

616.996 [Formerly 616.885; repealed by 2009 c.175 §6]

616.997 Civil penalties; rules; hearing; disposition of moneys. (1) In addition to any penalty available under ORS 561.190, 616.992 or 616.994, the State Department of Agriculture may impose a civil penalty for a violation of this chapter or of rules, regulations or standards adopted under this chapter. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$10,000 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the date of mailing or personal service of the notice of civil penalty.

(4) Moneys received by the department from civil penalties imposed under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account. [2009 c.175 §12]

PENNSYLVANIA

CHAPTER 5. UPC SCANNING SYSTEMS AND PLU DEVICES GENERAL

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Authority

The provisions of this Chapter 5 issued under the Consolidated Weights and Measures Act, 3 Pa.C.S. § § 4101—4194, unless otherwise noted.

Source

The provisions of this Chapter 5 adopted May 7, 1999, effective May 8, 1999, 29 Pa.B. 2460, unless otherwise noted.

Cross References

This chapter cited in 70 Pa. Code § 2.1 (relating to definitions); and 70 Pa. Code § 8.3 (relating to training and certification with respect to individual types of weighing and measuring devices).

GENERAL

§ 5.1. Purpose.

Section 4112(c) of the act (relating to general testing and inspections) requires the inspection of all commercially used UPC scanning systems and PLU devices within this Commonwealth by June 30, 1999, and thereafter at intervals of no greater than 12 months. It is the purpose of this chapter to accomplish the following:

(1) Establish the Department's specifications, tolerances and procedures with respect to the inspection of UPC scanning systems and PLU devices, and supplant Chapter 39 (Reserved) as authorized in section 4112(d) of the act.

(2) Identify the minimum level of training necessary for a person to be qualified to inspect UPC scanning systems and PLU devices.

(3) Establish a procedure by which a person may apply to the Department to become a certified UPC/PLU inspector.

(4) Prescribe a procedure under which the Department can review inspections performed by certain certified UPC/PLU inspectors and revoke or suspend certification.

(5) Establish minimum requirements for the "private certification programs" referenced in section 4112(c) of the act.

(6) Otherwise comply with section 4112(d) of the act.

§ 5.2. Requirement of annual testing and inspection.

(a) *General requirement.* The Department will, by June 30, 1999, and within every 12-month period thereafter, inspect and test each commercially used UPC scanning system and PLU device in this Commonwealth to ascertain if it is correct, unless the system or device is inspected by a city or county sealer, as described in subsection (b), or the system or device is exempt from inspection, as described in subsection (c).

(b) *Delegation of inspection responsibilities.* The Department may assign responsibility for conducting the testing and inspections described in subsection (a) to a city or county by a memorandum of understanding between the Department and the city or county entered into in accordance with section 4125 of the act (relating to division of responsibilities).

(c) *Exemption for UPC scanning systems and PLU devices inspected by a private certification program.* A commercially used UPC scanning system or PLU device shall be exempt from the annual testing and inspection described in subsection (a) if all of the following occur:

(1) The system or device is inspected at intervals of no greater than 1 year.

(2) The inspection is unannounced.

(3) The inspection is conducted as part of a private certification program.

(4) The private certification program has registered with the Department in accordance with § 5.21 (relating to registration).

(5) The certified UPC/PLU inspector conducting the inspection on behalf of the private certification program files a price verification inspection report with the Department in accordance with the procedure described at § 5.12 (relating to inspections: reporting procedures).

(6) The private certification program meets the requirements of this chapter.

§ 5.3. Testing and inspection standards.

(a) *Standards.* The “Examination Procedures for Price Verification” adopted by NCWM in Publication No. 19 (August 1995), or any subsequent amendment thereof, are hereby adopted as the specifications and tolerances of the Department with respect to commercially used UPC scanning systems and PLU devices.

Example: A certified UPC/PLU inspector shall evaluate “errors” and the “accuracy” of UPC scanning systems and PLU devices in accordance with the “Examination Procedure for Price Verification” in NCWM Publication No. 19 (August 1995), which requires that a UPC scanning system or PLU device have an accuracy rate of 98% or higher to “pass” an inspection.

Example: A certified UPC/PLU inspector shall verify the price of sale items by allowing the sales clerk to determine the price of the item using the store’s customary procedures, including manually entering discounts, in accordance with Paragraph 7.3, Note 3, of the “Examination Procedure for Price Verification” in NCWM Publication No. 19 (August 1995).

(b) *Applicability.* The standards described in subsection (a) will be used by any person conducting testing and inspection of a commercially used UPC scanning system or PLU device in the capacity of a certified UPC/PLU inspector.

(c) *Obtaining Publication No. 19.* The Department will provide a copy of NCWM Publication No. 19 (August 1995), or any subsequent amendment thereof, at cost to any person requesting a copy.

§ 5.4. Certified UPC/PLU inspector.

A person shall be a certified PLU/UPC inspector to conduct an inspection of a commercially used UPC scanning system or PLU device described in section 4112(c) of the act (relating to general testing and inspections), regardless of whether the inspection is performed by a State inspector of weights and measures, an employe of a city or county acting in accordance with a memorandum of understanding entered into with the Department, or a person acting as part of a private certification program. A person may apply to the Department to become a certified UPC/PLU inspector.

§ 5.5. Authority of a certified UPC/PLU inspector.

(a) *General.* A certified UPC/PLU inspector is qualified to perform the annual testing and inspection of a commercially used UPC scanning system or PLU device which is required under section 4112(c) of the act (relating to general testing and inspections). A certified UPC/PLU inspector—including a certified UPC/PLU inspector acting as part of a private certification program—may inspect UPC scanning systems or PLU devices owned, used or leased by a person with respect to which the certified UPC/PLU inspector is an employe or agent if the inspection is conducted on an unannounced basis under section 4112(c) of the act.

(b) *Limitation on authority.* A certified UPC/PLU inspector may exercise authority only in one of the following contexts:

(1) The certified UPC/PLU inspector is a State inspector of weights and measures.

(2) The certified UPC/PLU inspector is an employe of a city or county, and is acting in accordance with a memorandum of understanding entered into with the Department in accordance with section 4125 of the act (relating to division of responsibilities).

(3) The certified UPC/PLU inspector is acting as part of a private certification program.

(c) *Fees.* A certified UPC/PLU inspector may not charge a fee for inspection and testing services, unless that person is acting as part of a private certification program, or that person is an employee of a city or county and is acting in accordance with a memorandum of understanding entered into with the Department under section 4125 of the act.

§ 5.6. Certification requirements.

(a) *General.* A person seeking to become a certified UPC/PLU inspector shall do the following:

(1) Successfully complete a training course in examination procedures for price verification as adopted by NIST/NCWM, and as described in § 5.7 (relating to training courses).

(2) Comply with the application requirements and other requirements of this chapter.

(b) *Persons certified under interim guidelines.* A UPC/PLU inspector's certificate issued in accordance with Chapter 39 (relating to Reserved) authorized by section 4112(d) of the act (relating to general testing and inspections) shall be considered a UPC/PLU inspector's certificate issued under this chapter.

§ 5.7. Training courses.

(a) *General approval of NIST/NCWM training courses.* The Department has approved any NIST/NCWM price verification training course utilizing the "Examination Procedure for Price Verification" set forth in NCWM Publication No. 19 (August, 1995), or a subsequent successor publication thereto, as an approved training course for certified UPC/PLU inspector candidates.

(b) *Current approved NIST/NCWM training courses.* The current approved NIST/NCWM training courses are the "NIST/NCWM Price Verification Training" course and the "NIST/NCWM Price Verification Instructor's Training" course. An approved training course may be conducted by a person who has successfully completed the NIST/NCWM price verification instructor's training course.

(c) *New or additional training courses.* The Department will update or revise the list of approved NIST/NCWM training courses in subsection (b) by publishing notice describing this update or revision in the *Pennsylvania Bulletin*.

(d) *Effect of addition of a course to list of approved courses.* If the Department approves a new or additional training course for certified UPC/PLU inspector candidates, a person who has successfully completed that course within 2 years prior to its approval will be deemed to have completed an approved course.

Cross References

This section cited in § 5.6 (relating to certification requirements).

§ 5.8. Applying for certification.

(a) *Application required.* A person who is at least 18 years of age and has successfully completed an approved training course (as described in § 5.7 (relating to training courses)) within 2 years of the date of application may apply to be certified as a UPC/PLU inspector. Certification is granted through issuance of the certificate described in § 5.9 (relating to UPC/PLU inspector's certificate).

(b) *Form of application.* A person seeking to become a certified UPC/PLU inspector may obtain an application form from the Department at the address in § 2.2 (relating to contacting the Department). The applicant shall complete the form and return it to that same address. The application form shall require the following information:

- (1) The name, mailing address and birth date of the person seeking a UPC/PLU inspector's certificate.
- (2) Whether the applicant seeks to conduct UPC/PLU inspections as a State inspector of weights and measures, an employee of a city or county acting in accordance with a memorandum of understanding with the Department or as part of a private certification program.
- (3) The name, location and date of completion of any approved training course completed by the person seeking a UPC/PLU inspector's certificate.
- (4) A copy of any certificate of completion with respect to the approved training course.
- (5) Two identical 1-inch square color photographs (front facial view) of the person seeking a certificate.
- (6) The date of the application.
- (7) Other information the Department might reasonably require to determine eligibility for certification.

(c) *Departmental action on application.* The Department will, within 30 days of receiving an application, mail the applicant a UPC/PLU inspector's certificate, a disapproval notice or a request for additional clarification or documentation. If the Department requests additional clarification or documentation, its review and consideration of the application will cease until the requested material is received, at which time the 30-day review period will begin again.

§ 5.9. UPC/PLU inspector's certificate.

(a) *Form of certificate.* The Department will format the UPC/PLU inspector's certificate into an identification card sized document, so it may be carried conveniently on a certified UPC/PLU inspector's person while performing inspections or tests under authority of that certificate.

(b) *Contents of UPC/PLU inspector's certificate.* A UPC/PLU inspector's certificate will bear the following information:

- (1) The name of the person to whom it is issued.
- (2) The expiration date of the certificate, which, in accordance with § 5.10 (relating to expiration of UPC/PLU inspector's certificate), shall be 3 years from the date of issuance.
- (3) A unique identification number.
- (4) A photograph of the person to whom it is issued.
- (5) A statement that the Department has determined the person identified on the certificate to be a "certified UPC/PLU inspector" in accordance with section 4112 of the act (relating to general testing and inspections).
- (6) Other information the Department might reasonably include.

(c) *Ownership of UPC/PLU inspector's certificate.* A certificate issued by the Department will remain the property of the Department. A certified UPC/PLU inspector or other person having physical possession of a certificate shall, upon written notice from the Department, surrender and return the certificate to the Department.

(d) *Obligation to produce certificate for inspection.* A certified UPC/PLU inspector shall have his UPC/PLU inspector's certificate with him whenever performing inspections or tests under authority of that certificate, and shall produce the certificate for inspection upon demand by the Department or a person on whose behalf the certified UPC/PLU inspector is performing the inspection or test.

Cross References

This section cited in 70 Pa. Code § 5.8 (relating to applying for certification).

§ 5.10. Expiration of UPC/PLU inspector's certificate.

A UPC/PLU inspector's certificate is valid for 3 years from the date it is issued, unless it is suspended or revoked earlier in accordance with the procedures in § 5.15 (relating to suspension or revocation of certification).

Cross References

This section cited in 70 Pa. Code § 5.9 (relating to UPC/PLU inspector's certificate).

§ 5.11. Obtaining a new UPC/PLU inspector's certificate.

(a) *No renewals: new certificate required.* The Department will not renew a UPC/PLU inspector's certificate or extend the expiration date of a certificate. A person shall, instead, apply for and obtain a new certificate in accordance with § 5.8 (relating to applying for certification) in order to remain a certified UPC/PLU inspector.

(b) *Training course.* A person who is applying for certification shall have successfully completed an approved training course as described in § 5.7 (relating to training courses) within 2 years of the date of the application form.

(c) *Timing of application.* A person may apply for certification at any time. A current certified UPC/PLU inspector who seeks to avoid a lapse in certification is encouraged to apply for a new UPC/PLU inspector's certificate at least 60 days in advance of the expiration date of the current certificate.

§ 5.12. Inspections: reporting procedures.

(a) *Inspection report form required.* A certified UPC/PLU inspector shall prepare and submit to the Bureau a price verification inspection report form with respect to any inspection the certified UPC/PLU inspector conducts. A copy of this price verification inspection form is set forth in Appendix A. The form is substantively identical to the "Appendix A Model Form—Price Verification Report" form in NCWM's Examination Procedure for Price Verification.

(b) *Acquiring forms.* The Department will provide a sample price verification inspection report form upon the request of a certified UPC/PLU inspector. This sample form may be copied at the certified UPC/PLU inspector's expense.

(c) *Distribution of forms.* A completed price verification inspection report form shall be distributed as follows:

(1) The certified UPC/PLU inspector shall distribute the original of this form to the owner of the systems and devices inspected, or to a responsible person at the site where the inspection occurred.

(2) The certified UPC/PLU inspector shall forward a copy of this form to the Department by mailing or delivering it to the Department by the 10th day of the month immediately following the month the inspection was conducted. Delivery may be accomplished by electronic means such as modem transmission/e-mail or fax machine. If delivery is accomplished by fax machine, the certified UPC/PLU inspector shall retain the transmittal receipt as proof of compliance with this requirement.

(3) The certified UPC/PLU inspector shall retain a copy of this form and any transmittal receipt evidencing delivery of the form to the Department for at least 3 years from the date the testing and inspection services are performed.

Cross References

This section cited in 70 Pa. Code § 5.2 (relating to requirement of annual testing and inspection); and 70 Pa. Code § 7.4 (relating to report by inspectors).

§ 5.13. Inspections: enforcement levels.

The “Model Enforcement Levels” in Section 11, Paragraph 11.2 of NCWM’s Examination Procedure for Price Verification, or any subsequent revision thereto, are adopted as the enforcement levels to be applied by the Department and certified UPC/PLU inspectors.

§ 5.14. Inspection and testing by the Department.

(a) *Inspections generally.* The Department may evaluate the performance of a certified UPC/PLU inspector who conducts inspections for a private certification program by conducting a follow-up inspection of any UPC scanning system or PLU device that has been inspected and tested by the certified UPC/PLU inspector.

(b) *Time lapse and other factors effecting results.* In evaluating the inspection and testing performed by a certified UPC/PLU inspector as described in subsection (a), the Department will consider any factor that might reasonably account for a variance between the Department’s inspection results and those of the certified UPC/PLU inspector, including a lapse of time between an inspection performed by the Department and the inspection performed by the certified UPC/PLU inspector.

(c) *Reporting of results.* Within 30 days following a follow-up inspection, the Department will mail the certified UPC/PLU inspector written notice of the Department’s inspection and the results of that inspection.

(d) *Use of results.* The Department may use the results of its follow-up inspection to suspend or revoke a UPC/PLU inspector’s certificate, as described in subsection (a), in accordance with § 5.15 (relating to suspension or revocation of certification), or as the basis for a warning or instruction directed to the certified UPC/PLU inspector.

Cross References

This section cited in 70 Pa. Code § 5.15 (relating to suspension or revocation of certification).

§ 5.15. Suspension or revocation of certification.

(a) *Basis for action.* The Department may suspend or revoke a UPC/PLU inspector's certificate if the certificate holder conducts inspections for a private certification program and does one or more of the following:

- (1) Violates a provision of this chapter.
 - (2) Violates a provision of the act.
 - (3) Violates an applicable standard prescribed by NCWM's Examination Procedure for Price Verification, unless that standard is inconsistent with the act or this chapter.
 - (4) Intentionally or fraudulently reports inaccurate information on a price verification inspection report form.
 - (5) Is found, following inspection and testing by the Department in accordance with § 5.14 (relating to inspection and testing by the Department), to have inaccurately, improperly or incompetently performed an inspection of a UPC scanning system or PLU device.
- (b) *Notice.* The Department will provide a certified UPC/PLU inspector with written notice of its intention to suspend or revoke certification, which will afford that person notice and opportunity for an administrative hearing before the Department prior to the effective date of the suspension or revocation.
- (a) *Delivery of notice.* The Department will deliver the notice described in subsection (b) to the affected certified UPC/PLU inspector by personal service or by regular mail to the address provided by the certified UPC/PLU inspector on the most recent application for a certificate, or to the address most recently provided to the Department in writing by the certified UPC/PLU inspector as the address to which notices should be sent.

Cross References

This section cited in 70 Pa. Code § 5.14 (relating to inspection and testing by the Department).

§ 5.16. Certified UPC/PLU inspector list.

(a) *List to be maintained.* The Department will maintain a current list containing the following information with respect to each certified UPC/PLU inspector:

- (1) The name and address.
- (2) The telephone number.
- (3) The fax number, if available.
- (4) The expiration date of certification.
- (5) The unique identification number of the UPC/PLU inspector's certificate.

(b) *Distribution of copies.* The Department will provide a copy of the current certified UPC/PLU inspector list upon request.

PRIVATE CERTIFICATION PROGRAMS

§ 5.21. Registration.

(a) *General requirement.* A person who owns or operates a commercially used UPC scanning system or PLU device may avoid the requirement of annual State or local inspection described in section 4112(c) of the act (relating to general testing and inspections) by having the inspection performed by a private certification program. A private certification program shall meet the requirements of this chapter and shall, prior to commencing testing and inspection of commercially used UPC scanning systems or PLU devices, file a written statement with the Department, at the address in § 2.2 (relating to contacting the Department).

(b) *Contents of written statement.* The written statement referenced in subsection (a) shall contain the following:

(1) The name, business address and telephone number of the private certification program.

(2) The name of the certified UPC/PLU inspector who will be conducting UPC scanning system or PLU device inspections on behalf of the private certification program, together with the unique identification number appearing on that person's UPC/PLU inspector's certificate.

(3) The signature, printed name and title of the person making the statement.

(c) *Action by Department.* Within 30 days of receiving a written statement as described in subsection (b), the Department will mail the applicant a copy of the written statement bearing a legible stamp or seal indicating the original document has been filed with the Department.

(d) *Updating the written statement.* A private certification program shall, within 30 days of a change affecting the accuracy of a written statement it has filed with the Department, provide the Department an update of its written statement.

Cross References

This section cited in 70 Pa. Code § 5.2 (relating to requirement of annual testing and inspection).

§ 5.22. Requirements and fees.

(a) *Unannounced inspections required.* A certified UPC/PLU inspector conducting an inspection on behalf of a private certification program shall conduct that inspection on an unannounced basis.

(b) *Fees permitted.* A private certification program may charge a fee for its services—whether a per-inspection fee, a flat annual fee, a membership fee in an organization that conducts a private certification program for its members, or some other fee arrangement.

§ 5.23. Program list.

(a) *List to be maintained.* The Department will maintain a current list of private certification programs. The list will contain the name, business address, telephone number and fax number (if available) of each private certification program.

(b) *Distribution of copies.* The Department will provide a copy of the current private certification program list upon request.

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RHODE ISLAND

UNIT PRICING Licensing Law (R.I.G.L. Title 6, Chapter 31)

CHAPTER 31 UNIT PRICING CHAPTER 6-31 Unit Pricing Index Of Sections

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§ 6-31-1 Definitions. – As used in this chapter:

(1) "Consumer commodity" means any food, drug, device, or cosmetic and other article, product, or commodity of any other kind or class, except for drugs sold only by prescription, which:

(i) Are customarily produced for sale to retail sales agencies or instrumentalities for consumption by individuals, for use by individuals for purposes of personal care or in the performance of services ordinarily rendered in or around the household; and

(ii) Usually are consumed or expended in the course of the consumption or use.

(2) "Director" means the director of business regulation.

(3) "Retail price" means the price at which the consumer commodity is sold to the ultimate customer.

(4) "Sale at Retail" means sale of a consumer commodity to the ultimate customer.

(5) "Total price" of a consumer commodity means the full purchase price of a consumer commodity without regard to units of weight, measure, or count.

(6) "Ultimate customer" is a person who purchases a product other than for resale.

(7) "Unit price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of the commodity per the unit of weight, measure, or count as the director designates, computed to the nearest whole cent or fraction thereof as the director designates.

§ 6-31-2 Consumer information required. – (a) Every person who sells, offers for sale, or exposes for sale at retail any aluminum foil, bread, carbonated soft drinks, cereals, cooking oils, dog or cat food, facial tissues, fish, fowl, fruits, grains, meats, napkins, plastic food wrapping, vegetables, waxed paper, or other consumer commodity designated by the director, shall disclose to the consumer the unit price of the consumer commodity as provided in this chapter.

(2) The same unit of weight, measure, or count shall be utilized to express the unit price of different sizes or brand names of the same or similar consumer commodities. All stamps, tags, or labels expressing the total price shall be standardized within each place of business, and shall set forth the cents from dollars by use of a decimal point, different type or type size, or a cents sign.

(b) Every person who sells, offers for sale, or exposes for sale at retail any consumer commodity shall disclose to the consumer the total price of the consumer commodity as provided in this chapter.

(c) Wherever meat, poultry, fish, fresh vegetables, and fresh fruit are sold by a measure of weight and are packaged or wrapped for sale by a retailer in advance of being sold, offered for sale, or exposed for sale, an accurate computing scale of adequate capacity shall be placed in a conspicuous accessible location so the buyer may weigh the product which is being purchased.

§ 6-31-3 Means of disclosure. – Persons subject to the requirements of § 6-31-2 shall disclose the unit price and total price to consumers in one or more of the following appropriate ways:

(1) If the consumer commodity is so located that it is not conspicuously visible to the consumer, or if the consumer commodity is so located that the price information, if displayed in accordance with subdivision (2), would not be conspicuously visible to the consumer, by a sign or list bearing the price information conspicuously placed near the point of procurement; or

(2) By attachment of a stamp, tag, or label directly adjacent to the consumer commodity, on the shelf on which the commodity is displayed, or by stamping or affixing the price information on the commodity itself; provided however, that upon each commodity shall be stamped or affixed the total price of the commodity in arabic numerals, if and when a computerized system is used; or

(3) In accord with regulations promulgated by the director.

6-31-4. [Repealed]

Repealed Sections. Former § 6-31-4 (P.L. 1972, ch. 15, § 1), concerning advertising, was repealed by P.L. 1990, ch. 392, § 1, effective July 12, 1990.

§ 6-31-5 Director's powers. – (a) The director shall do all of the following:

(1) Designate by regulation those consumer commodities in addition to the consumer commodities specifically enumerated in § 6-31-2(a) as to which display of the unit price shall be required, upon a determination that the display will be in the best interest of consumers;

(2) Designate by regulation the unit of weight, measure, or count in terms of which the unit price of each consumer commodity shall be expressed, provided that no designated unit shall be such as to require persons subject to the provisions of § 6-31-2(a) to measure any consumer commodity solely for the purpose of complying with § 6-31-2(a);

(3) Designate by regulation whether the unit price of each consumer commodity subject to the provisions of § 6-31-2(a) shall be expressed to the nearest whole cent or to an appropriate fraction thereof;

(4) Exempt by regulation classes of retail establishments from any or all requirements of this chapter upon a determination that because sales of consumer commodities regulated by this chapter are purely incidental to the business of the classes of retail establishments, compliance with this chapter is impracticable and unnecessary for adequate protection of consumers; provided, however, that any person, firm, corporation, or other business entity with less than eight (8) full time employees shall be exempt from the provisions of this chapter;

(5) Prescribe by regulation means for the disclosure of price information upon determination that they are more effective than those prescribed in § 6-31-3; and

(6) Promulgate any other regulation necessary to effectuate the provisions of this chapter in accordance with the best interests of consumers.

(b) The director shall give public notice of his or her intention to promulgate regulations pursuant to subsection (a) and shall receive the opinions of interested parties on the regulations. Regulations shall take effect thirty (30) days from the date on which the notice is given.

(c) The director shall hold hearings whenever he or she has probable cause to believe, or whenever twenty-five (25) or more citizens state in writing to the director their belief that the actions of any person subject to the provisions of this chapter have evidenced a pattern of noncompliance with any or all of those provisions. Pursuant to the hearings, to which the suspected violator shall be invited with written notice at least ten (10) days before the hearing is held, the director shall, upon a finding that a pattern of noncompliance has been shown:

(1) Issue a warning citation; or

(2) Report any pattern of noncompliance to the attorney general who shall cause appropriate proceedings to be instituted in the proper courts.

§ 6-31-6 Penalties. – Any person whose actions evince a pattern of noncompliance with any or all provisions of this chapter shall be punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$500), or by a fine only of not more than five hundred dollars (\$500).

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing
233 Richmond Street
Providence, RI 02903
Commercial Licensing Regulation 13 – Unit Pricing
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Section 1 Purpose

Pursuant to the provisions of R.I. Gen. Laws § 42-35-1 *et seq.*, the Director of the Department of Business Regulation hereby adopts the following Regulations on implementation of the Unit Pricing Act, adopted by the General Assembly in the 1972 session, and further determines that the consumer commodities to be regulated are set forth in Section 5 of the following regulations:

Section 2 Definitions

(a) "Consumer commodity" means any food, drug, device, or cosmetic and other article, product, or commodity of any other kind or class, except for drugs sold only by prescription:

- (i) which are customarily produced for sale to resale agencies or instrumentalities for consumption by individuals, for use by individuals for purposes of personal care or in the performance of services ordinarily rendered in or around the household, and
- (ii) which usually are consumed or expended in the course of such consumption or use.

(a) "Unit price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of weight, measure, or count as the Director designates, computed to the nearest whole cent or fraction thereof as the Director designates.

Section 3 Exemptions

Sellers at retail need not comply with the provisions of these Regulations as to the following packaged commodities:

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- (a) Medicine sold by prescription only;
- (b) Beverages subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act;
- (c) Such packaged commodities which are sold in units of even pounds, pints, quarts, or gallons, and which have a retail price plainly marked thereon; but only the particular packaged commodity sold in such units shall be exempt;
- (d) Consumer commodities sold by any retail establishment operated by any person, firm, corporation or other business entity with less than five (5) full-time employees and less than two (2) retail outlets.

Section 4 Means of Disclosure

All retail establishments subject to these Regulations shall disclose the price per measure to consumers in the following manner:

(a) Attachment of an orange stamp, tag, or label on the item itself, or directly under or over the item on the shelf on which the item is displayed, and conspicuously visible to the consumer, such orange stamp, tag or label carrying the following data and no other:

- (i) The words "Unit Price" as a heading.
- (ii) The designation of the price per measure shall be expressed in terms of dollars or cents, as applicable, carried to three (3) digits. If the price is over \$1.00, it may be expressed to the nearest full cent, provided that said price is rounded off from .005 and over to the next higher cent, and if .004 or less down to the next lower cent, but that if it is expressed in cents, it be carried to three (3) digits. Example: "25.3¢ per pound; \$1.67 per quart."
- (iii) The description of the packaged commodity by item and size of unit being sold may also be included thereon at the option of the retail establishment.
- (iv) In such items as paper products, which are manufactured in numbers of folds showing in addition to such other information as may be required hereunder, the applicable "ply" count or thicknesses, customarily designated as "ply" by such packaged commodities.
- (v) Except that the retail establishment shall not be required to comply with the provisions of paragraph 3(a) as to color and 3(c) as to size of type, where the

product or commodity carries a pre-printed retail price on its package,

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provided, that the unit price appears thereon in a size no smaller than that used for the retail price.

(b) If the packaged commodity is not conspicuously visible to the consumer, a list of the price per measure conspicuously placed near the point of purchase, or a sign or list of price per measure posted at or near the point of display, or by stamping or affixing the price per measure on the packaged commodity itself, provided that the data, color code and size requirements of paragraph 3(a) and (c) are met.

(c) The size of the print of the legend required under the provisions of paragraph 3(a) and 3(b) and in any other place within the retail establishment, where the price of commodities regulated hereunder is displayed, the price per measure shall be displayed in type no smaller than that used for the price of the item, but in no event shall such price per measure appear in a size less than 6/16" in height; provided, that, if any retail establishment is unable to meet the minimum size requirements, set forth herein, such retail establishment may apply to the Director of the Department of Business Regulation for permission to use a size and type no less than pica size for such periods of time as the Director of the Department of Business Regulation may deem to be reasonable.

(d) Provided, that when the retail establishment employs display material and the retail price appears thereon in sizes larger than 6/16", the unit price required hereunder may appear in a size no less than 6/16" or 1/4 the size used for the retail price, whichever is greater.

(e) When the display space used for the packaged commodity is inadequate to set forth separate price legends as required hereunder, and where price designations are not customarily used for the commodities, the retailer may set forth such legends as are required hereunder on display cards or other material used for the display of prices for such commodities. The display of unit price shall appear on an orange background, be conspicuously visible, and the size of type used for the legend shall be no less than the size of the type used for the price of such packaged commodity.

Section 5 Price Per Measure

The price per measure required to be disclosed under these Regulations shall be:

(a) Price per pound for commodities whose net quantity is customarily expressed in units of pounds or ounces or both.

(b) Price per pint, quart or gallon for commodities whose net quantity is customarily expressed in units of pints, quarts, gallons or fluid ounces, or a combination thereof; provided, that the same unit of measure is used for the same commodity in all sizes sold in such retail establishment.

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(c) Price per 50 feet or per 50 square feet, as appropriate, for commodities and items whose net quantity is customarily expressed in units of feet, inches, square feet or square yards, or whose net quantities are expressed in units of area or length.

(d) Price per 100 units of commodities, whose net quantity is expressed by a numerical count, PROVIDED, that, where the contents of the packaged commodities are expressed by a measure other than count, either by weight, fluid measure, area, or length, the unit price per measure may be expressed either as a price per measure under the provisions of paragraphs 4(a), (b) or (c), or by count, provided further, that the same unit of measure is used for the same commodity in all sizes in such retail establishment.

(e) For those products or commodities, which are universally sold in sizes less than three (3) ounces, the price per measure may be designated as the price per ounce, provided that the same unit of measure is used for the same commodity in all sizes in such retail establishment.

Section 6 Packaged Commodities Regulated

(a) The following commodities shall be labeled in accordance with these Regulations no later than October 1, 1972. Thereafter, such commodities may not be sold in retail

stores subject to these Regulations unless the conditions of these Regulations shall have been met.

Detergents

Household cleansers, waxes, deodorizers

Cereals

Instant breakfast foods

Butter

Oleomargarine

Coffee, instant and ground

Cocoa

Tea

Jellies, jams and sandwich spreads, honey

Cooking oils

Grains

Fruits, vegetables, and juices - canned, jarred, boxed

Pet foods

Baby foods

Shortenings

Flour

Baking mixes and supplies

Canned fish and meats

Sanitary paper products, such as napkins, paper towels, tissues, etc.

Aluminum and plastic wraps and foils, waxed paper

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Spaghetti, noodles and pasta products

Ketchup - mustards - sauces

* Snack foods, such as potato chips, pretzels, etc.

Soups - canned and dry mixes

Frozen fruits, vegetables, and juices

Bread and pastry products

Bottled beverages - carbonated and non-carbonated

Flavored syrups and powdered drink mixes

Cookies and crackers

Salad Dressings

Toothpaste

Deodorants

Shampoos

Shaving Cream

* Only when sold in packages of five ounces (5 oz.) or more in weight.

EFFECTIVE DATE: September 12, 1972

REFILED: December 19, 2001

§ 3.2-5627. Pricing of retail merchandise.

A. In a point-of-sale system the selling price of a consumer item displayed or offered for sale at retail shall be clearly and conspicuously indicated in Arabic numerals, so as to be readable and understandable by visual inspection, and shall be stamped upon or affixed to the consumer item or posted at or adjacent to the display.

The provisions of this section shall not apply to: (i) greeting cards sold individually that have a code price, readable and understandable by visual inspection, on the back of the card; or (ii) merchandise ordered as a gift by a consumer that is sent by mail or other delivery service to a person other than the consumer by the retailer at the request of the consumer.

B. Any person who knowingly violates the provisions of this section is guilty of a Class 4 misdemeanor.

(1991, c. 605, § 3.1-949.1; 1993, c. 604; 2008, c. [860](#).)

VERMONT

Vermont Unit Pricing Law & Regulation

Title 6, V.S.A., Chapter 37

§ 681. Definitions

As used in this chapter:

- (1) "Secretary" means the secretary of agriculture, food and markets.
- (2) "Consumer commodity" means any food, drug, device, or cosmetic and other article, product, or commodity of any other kind or class, except for drugs sold only by prescription:
 - (A) which are customarily produced for sale to retail sales agencies or instrumentalities for consumption by individuals, for use by individuals for purposes of personal care or in the performance of services ordinarily rendered in or around the household; and
 - (B) which usually are consumed or expended in the course of such consumption or use.
- (3) "Unit price" of a consumer commodity means the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of weight, measure, or count as the secretary designates, computed to the nearest whole cent or fraction thereof as the secretary designates. (1971, No. 240 (Adj. Sess.), § 1; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 682. Consumer information required

- (a) Every person who sells, offers for sale, or exposes for sale at retail any aluminum foil, bread, carbonated soft drinks, cereals, cooking oils, dog or cat food, facial tissues, fish, fowl, fruits, grains, meats, napkins, plastic food wrapping, vegetables, waxed paper or other consumer commodity designated by the secretary shall disclose to the consumer the unit price of the consumer commodity as provided in this chapter.
- (b) Every person who sells, offers for sale, or exposes for sale at retail any consumer commodity shall disclose to the consumer the total price of the consumer commodity as provided in this chapter. (1971, No. 240 (Adj. Sess.), § 2; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 683. Means of disclosure

Persons subject to the requirements of section 682 of this title shall disclose the unit price and total price to consumers in one or more of the following appropriate ways:

- (1) if the consumer commodity is so located that it is not conspicuously visible to the consumer, or if the consumer commodity is so located that the price information if displayed in accordance with subdivision
- (2) of this section would not be conspicuously visible to the consumer, by a sign or list bearing the price information, conspicuously placed near the point of procurement; or

(2) by attachment of a stamp, tag, or label directly adjacent to the consumer commodity, on the shelf on which the commodity is displayed, or by stamping or affixing the price information on the commodity itself; or

(3) in accord with regulations adopted by the secretary. (1971, No. 240 (Adj. Sess.), § 3, amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 684 REPEALED. 1973, No. 50

§ 685. Secretary's powers

The secretary shall:

(1) Designate by regulation those consumer commodities in addition to the consumer commodities specifically enumerated in subsection 682(a) of this title as to which display of the unit price shall be required, upon a determination that such display will be in the best interests of consumers;

(2) Designate by regulation the unit of weight, measure, or count in terms of which the unit price of each consumer commodity shall be expressed, provided that no designated unit shall be such as to require persons subject to the provisions of subsection 682(a) of this title to measure any consumer commodity solely for the purpose of complying with subsection 682(a) of this title;

(3) Designate by regulation whether the unit price of each consumer commodity subject to the provisions of subsection 682(a) of this title shall be expressed to the nearest whole cent or to an appropriate fraction thereof;

(4) Exempt by regulation classes of retail establishments from any or all requirements of this chapter upon a determination that, because sales of consumer commodities regulated by this chapter are purely incidental to the business of such classes of retail establishments, compliance with this chapter is impracticable and unnecessary for adequate protection of consumers;

(5) Prescribe by regulation means for the disclosure of price information upon determination that they are more effective than those prescribed in section 683 of this title;

(6) Adopt any other regulations necessary to effectuate the provisions of this chapter, in accordance with the best interests of consumers; and

(7) Adopt regulations addressing the method of price disclosure in the sale of home food service plans, including not only the price of the commodities sold, but the service costs or membership fees associated with such a purchase. These regulations shall take precedence over any uniform regulation adopted by the National Conference on Weights and Measures and published by the National Institute of Standards and Technology. (1971, No. 240 (Adj. Sess.), § 5; amended 1991, No. 200 (Adj. Sess.); 2003, No. 42, § 2, eff. May 27, 2003.)

§ 686. Exceptions

The requirements of this chapter shall not apply to sales of consumer commodities:

(1) at a retail store with less than 7,000 square feet of floor space dedicated to the sale of consumer commodities. This exception shall not apply to the sales agencies or instrumentalities of a company having two or more sales agencies or instrumentalities as parts of that company.

(2) for use or consumption on the premises where sold. (1971, No. 240 (Adj. Sess.), § 6; amended 1989, No. 198 (Adj. Sess.), § 1, eff. Jan. 1, 1991.)

§ 687. Penalty

A person who violates this chapter shall be fined not more than \$500.00. (1971, No. 240 (Adj. Sess.), § 7.)

State of Vermont Department of Agriculture, Food & Markets

UNIT PRICING REGULATION

1. DEFINITIONS

- (a) "Point of sale" as used in these regulations, means the point at which consumer commodities are offered and displayed for retail sale in such a manner that the consumer may examine and select commodities for purchase without the assistance of sales personnel.
- (b) "Food" means
 - (1) articles used for food or drink for man or animals,
 - (2) chewing gum, and
 - (3) articles used for components of any such article.
- (c) "Drugs" means
 - (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary, or any supplement to any of them;
 - (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
 - (3) articles other than food, intended to affect the structure or any function of the body of man or any other animal; and
 - (4) articles intended for use as a component of any articles specified in this subsection
 - (5) but shall not include devices or their components, parts or accessories.
- (d) "Device" means instruments, apparatus and contrivances, including their components, parts, and accessories, intended
 - (1) for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals, or
 - (2) to affect the structure of any function of the body of man or animals.
- (e) "Cosmetic" means

- (1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance, and
- (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

2. PERSONS TO WHOM REGULATIONS APPLY

If required by law, any person who sells, offers or exposes for sale at retail any of the consumer commodities or products designated in Section 6 of these regulations shall disclose to the consumer the price per unit of weight, measure or count and the total price thereof, as required by Section 4 of these regulations.

3. EXEMPT PRODUCTS

- (a) Drugs sold by prescription
- (b) Beverages subject to, or complying with, packaging or labeling requirements imposed under the Federal Alcoholic Administration Act.
- (c) Such packaged commodities which are required to be marked individually with the cost per unit of weight under the provisions of Vermont Weights & Measures Laws, Title 9, Vermont Statutes Annotated, Section 2673. (Random weight packages)
- (d) Products where all brands of a commodity are sold in one size only, and which have a retail price plainly marked thereon;
- (e) Different brands or products co-mingled in one receptacle for the purpose of a one-priced sale.
- (f) Package contains one ounce or less in weight or fluid ounces.
- (g) Bread, bakery products and meat products which are in one pound packages showing the retail price.
- (h) Cups, plates, wrapping paper, candy, etc., which is intended for holiday use and is not carried or sold during non-holiday periods.

4. MEANS OF DISCLOSURE

All retail establishments subject to these regulations shall expose the price per measure to consumers in the following manner:

- (a) An orange label with information other than that required in section (b) to be in other color or colors, immediately below the item or above the item on the shelf so as to be conspicuously visible to the consumer, except on health and beauty aids, meat products and bakery products the unit price may be printed on package or applied with a label such as a gun type label. Where shelf labeling is not feasible, the unit price shall be printed on or attached on the individual packages except on off shelf displays, (such as end displays) a sign may be used. If the unit price is on the product itself, it may be in any color or colors as long as it is clear and conspicuous. Preprinted packages showing unit price shall conform to section 4(b), but are permitted in a color other than orange providing the color contrasts conspicuously with the background.
- (b) The tag or label shall contain the following four elements:
 - (1) The words "Unit Price" shall appear as a heading with the unit price always appearing to the left of the selling price, except that on gun-type labels it shall appear to the left or top, and except that on prepackaged cold cuts it may be omitted and the unit price may be on the bottom.
 - (2) The price per measure expressed in terms of dollars and cents, as applicable, carried to three digits if the unit price is under \$1.00(Example: .253 per pound or 25.3 cents per pound) and if the unit price is over \$1.00, it is to be expressed to the nearest full cent. (Example: \$1.665 shall be displayed as \$1.67)(Example: \$1,664 shall be displayed as \$1.66).
 - (3) The applicable unit of weight or measure or count.
 - (4) The description of the commodity being sold by item and size.
- (c) The following additional information may appear on the tag or label at the option of the individual retailer;

- (1) In items such as paper products, the applicable “ply” count or thickness shall be included.
- (2) Such logistical information which the retail establishment requires, such as order codes, numbers of rows, or shelf capacity.
- (d) The price per measure on a shelf label, when a shelf label is required, shall be displayed in type no smaller than that used for the retail price of the item but in no event shall the price per measure appear in a size less than ¼ inch. No asterisks shall be used to form numbers.

When products to be regulated appear other than on the shelf such as end displays, basket, etc. they shall be unit priced on the package with a label or a gun type label or the unit price shall conspicuously appear on a sign in a size not smaller than ¼ inch or one-fourth the size numerals used for the retail price, whichever is greater. The sign must be in compliance with Section (b).

Where the unit price is on the package itself or on a label such as a gun type label the unit price must be at least in a size of pica type or larger.

Where a shelf label refers to identical products, or the different flavors, etc. of the same product having same selling price or more than four feet of shelving, a shelf label must be shown for every four feet or fraction thereof.

If the retail price on the display materials is the same as the unit price label on the shelf or the package, the unit price does not have to be shown again on the display material. If the display material gives a retail price other than on the unit price label on the shelf or on the package, then, the display materials must show the unit price in compliance with Section (b).

- (e) If the items other than those required are unit priced, they must be in compliance with these regulations.

5. PRICE PER MEASURE

The price per measure required to be disclosed under these regulations shall be:

- (a) Price per pound for commodities whose net quantity is customarily expressed in units of pounds or ounces or both.
- (b) Price per quart for commodities whose net quantity is customarily expressed in units of pints, quarts, gallons, or fluid ounces, or a combination thereof.
- (c) Price for 50 square feet when its net quantity is customarily expressed in square inches, square feet, or square yards.
- (d) Price per 100 units of commodities, whose net quantity is expressed by a numeral count.

6. PRODUCTS REGULATED

The following list of commodities indicates the corresponding unit of measure which is required to be used in the designation of such unit price of such commodities by all retail establishments subject to the unit price regulations:

PRODUCT

UNIT MEASURE

Aluminum, plastic, freezer paper
wax paper

The unit of measure shall be the same as displayed on the package.

Baby foods: - solids, juices
Bags – sandwich, trash, lunch
freezer
Bird and animal foods over 40 ozs.

If sold by weight, the unit price be by the pound.

Bottled beverages (non-carbonated)

If by fluid measure, the unit shall be by the quart.

Bread and bread products	If by square feet, the unit price shall be by square feet.
Candy, individual bars over 2 oz. and decorative toppings	If sold by count, the price shall be 100 count.
Carbonated soft drinks (on contents only)	Where a dual declaration is shown involving count, the unit price shall be by the count.
Cereals	
Cheese, cheese spreads	
Chinese dinners and related items	
Cocoa, chocolate syrups	
Coffee, instant, ground and whole beans	
Cooking oils	
Crackers and cookies	
Fish, shell fish (fresh, if not random-wt. pkg., processed, including spreads; dried, canned, frozen, bagged)	
Flavored syrups, maple syrup	
Flours and dry mixes	
Fowl – all kinds of poultry (fresh, if not random-wt. pkg., processed, including spreads; dried, canned, frozen, bagged)	
Fruits (canned, jarred, boxed, frozen bagged) other than fresh	
Grains	
Health and beauty aids:	-liquids
	-creams
	-pastes
	-ointments
	-aerosols
	-lozenges
	-tablets
	-capsules
	-powders
Household cleaners, waxes, polishes, deodorizers:	-liquid
	-dry
	-aerosols
	-solids
Instant breakfast foods	
Instant potato flakes and granules	
Jellies, jams, sugar-based spreads and honey	
Juices (canned, frozen, bottled, cartons)	
Ketchup, mustard and sauces	

Mayonnaise and salad dressings
Meats (fresh, if not random-wt. pkg.;
processed, including spreads, dried, canned,
frozen, bagged)
Mixes to be used with meat, fish and poultry
over 4 oz.

Non-dairy creamers (dry)
Nuts, dried peas or beans

Paper products, including napkins, towels, tissues
plates and cups
Pastry products (fresh, frozen) over 5 oz.
Pickles and relishes
Prepared baking mixes including cake,
pancake, bread, frosting and icing
Peanut butter

Saccharin or other sweeteners
Sandwich spreads
Sanitary napkins, tampons
Snack foods, including potato chips,
pretzels, crackers, dips, etc.
Soaps, detergents, bleaches
and other laundry products: -solid
 -liquid
 -dry
 -aerosols

Solid shortenings
Soups, canned
Spaghetti, macaroni, noodles and pasta
products
Sugar – plain, colored or seasoned

Tea: -bags
 -bulk
 -instant, including pre-sweetened

Tomato, spaghetti and meat sauces

Vegetables (canned, jarred, boxed, frozen,
Bagged)

7. RESPONSIBILITY FOR COMPLIANCE

In the event of a violation of these regulations, the owner, the manager, or the person in charge of such retail establishment, and the person employing such manager or person in charge, where applicable, shall be deemed to be responsible for compliance by such retail establishment with the requirements of these regulations.

VIRGIN ISLANDS

§ 171. Misrepresentations; display of price

(a) Whenever any commodity or service is sold, or is offered, exposed or advertised for sale, by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents.

(b) The packaged commodities listed in subsection (c) of this section which are necessary for personal, family or household use, shall not be offered for sale at retail, unless there is posted in a conspicuous place at or near the point of sale, the price per ounce, inch, pint, or other applicable unit of measurement of the contents and the total sale price. Any packaged commodity whose net weight is one whole unit or two units and which has the retail price plainly marked thereon, shall be exempt from the requirements of this section. Any person who violates the provisions of this subsection shall be subject to an administrative fine imposed pursuant to the provisions of section 3(4) of this title, except that the amount shall be not less than \$50.00 nor more than \$300.00. Each commodity not properly labeled shall be considered a separate violation. The Director shall submit an annual report to the Governor and Legislature relative to action taken by him pursuant to this subsection.

(c) The packaged commodities which shall not be sold in retail stores unless there is posted, as provided in subsection (b) of this section, the price per unit shall include:

(1) Canned and bottled vegetables and fruits which do not require refrigerated storage.

(2) Canned and bottled real and imitation vegetable and fruit juices, which do not require refrigerated storage.

(3) Canned and bottled tomatoes, tomato sauce, tomato paste, tomato puree and other related tomato products which do not require refrigerated storage.

(4) Canned and bottled baby foods which do not require refrigerated storage.

(5) Cooking and salad oils.

(6) Canned and bottled salmon, tuna and sardines which do not require refrigerated storage.

(7) Jams, jellies and preserves.

(8) Peanut butter.

(9) Carbonated beverages.

(10) Coffee, instant and regular.

- (11) Dog and cat food.
- (12) Breakfast cereals (does not include corn meal, rice, maize).
- (13) Cake, pie crust and other pastry mixes.
- (14) Macaroni, spaghetti and other pasta products (does not include prepared or pre-flavored convenience pasta foods).
- (15) Paper towels, napkins, facial tissues, plates, paper cups and toilet paper.
- (16) Dishwashing and laundry soaps and detergents.
- (17) Scouring powder.
- (18) Bread.
- (19) Meat.
- (20) Poultry.
- (21) Fish.
- (22) Dairy products.
- (23) Eggs.
- (24) Fruits and vegetables.
- (25) Baked beans.
- (26) Rice, corn meal and maize.

(d) Price per measure shall be expressed as follows:

(1) Price per ounce, for commodities whose net quantity is stated in units of ounces or pounds, and whose total weight is less than one pound.

(2) Price per pound for commodities whose net quantity is stated in units of pounds and whose total weight exceeds one pound.

(3) Price per un

(4) Price per fluid ounce for commodities sold by fluid ounces, pints, quarts or gallons, or combinations thereof.

(5) Prices per foot, yard, per square foot, or per square yard, for commodities whose net quantities are stated in units of length or area.

(e) All required price information shall be clear and conspicuous and shall be on a stamp, tag or label, directly above, below, adjacent to, or on the consumer commodity to which it relates, in such a manner as to clearly indicate the commodity to which it applies.

(f) The stamp, tag or label shall include the unit price on the left side of a horizontal label, or on the lower part of a vertical label, and shall state the unit being utilized. The total selling price shall be included on the right side of a horizontal label, or the upper portion of a vertical label.

(g) The packaged commodities listed in subsection (c) of this section, to which these provisions apply, shall be periodically reviewed by the Director who shall, by regulation, make additions thereto where he determines that additional commodities are necessary for personal, family or household use.

(h) The provisions of subsections (b) and (f) of this section shall not apply to any business establishment whose gross receipts from all sources in the preceding calendar year did not exceed \$1,000,000.

—Added May 13, 1973, No. 3431, § 4, Sess. L. 1973, p. 108; amended Feb. 26, 1974, No. 3524, § 1, Sess. L. 1974, p. 24; Nov. 28, 1975, No. 3772, §§ 1, 2, Sess. L. 1975, p. 208; Oct. 8, 1992, No. 5817, § 12, Sess. L. 1992, p. 154.

§ 176. Certain price increases prohibited

(a) Price increases for consumer goods previously offered for sale to consumers are prohibited.

(b) Definitions—as used in this section:

- (1) “Retail establishment” means a store selling primarily items packaged individually, including food.
- (2) “Consumer goods” means tangible items that are used or brought for use primarily for personal, family, or household purposes.
- (3) “Offered for sale” means any attempt by advertisement or other means to induce consumers to purchase consumer goods by placing the consumer goods on display in a retail establishment.

(c) Limitations:

- (1) Where consumer goods were offered for sale at a reduced price immediately prior to the contemplated price increase, this section shall not apply if the price at which the consumer goods are sold does not exceed the price at which such consumer goods were offered for sale immediately prior to the sale at reduced prices.
- (2) When retail establishments offer consumer goods for sale and such goods are displayed at more than one price, through the use of signs or displays or by any other method, then the lower price shall control.
- (3) No retail establishment shall offer or display consumer goods for retail sale unless such goods or the shelf on which they are displayed indicates the purchase price of such goods.

—Added Jan. 24, 1975, No. 3666, § 2, Sess. L. 1974, p. 302; amended Feb. 1, 2001, No. 6391, § 2(a)(6), Sess. L. 2000, p. 435.

Washington

RCW 19.94.360

Declaration of price on outside of package.

In addition to the declarations required by RCW [19.94.350](#), any commodity in package form, the package being one of a lot containing random weights, measures or counts of the same commodity at the time it is exposed for sale at retail, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count and the total selling price of the package.

[1995 c 355 § 18; 1969 c 67 § 36.]

Notes:

Application -- Effective dates -- 1995 c 355: See notes following RCW [19.94.015](#).

RCW 19.94.390

Price not to be misleading, deceiving, misrepresented — Fractions — Examination procedure standard — Department may revise — Electronic scanner screen visibility.

(1) Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and one-half the width of the numerals representing the whole cents.

(2) The examination procedure recommended for price verification by the price verification working group of the laws and regulations committee of the national conference on weights and measures (as reflected in the fourth draft, dated November 1, 1994) for devices such as electronic scanners shall govern such examinations conducted under this chapter. The procedure shall be deemed to be adopted under this chapter. However, the department may revise the procedure as follows: The department shall provide notice of and conduct a public hearing pursuant to chapter [34.05](#) RCW to determine whether any revisions to this procedure made by the national institute of standards and technology or its successor organization for incorporating the examination procedure into an official handbook of the institute or its successor, or any subsequent revisions of the handbook regarding such procedures shall also be adopted under this chapter. If the department determines that the procedure should be so revised, it may adopt the revisions. Violations of this section regarding the use of devices such as electronic scanners may be found only as provided by the examination procedures adopted by or under this subsection.

(3) Electronic scanner screens installed after January 1, 1996, and used in retail establishments must be visible to the consumer at the checkout line.

[2000 c 171 § 64; 1995 c 355 § 20; 1969 c 67 § 39.]

Notes:

Application -- Effective dates -- 1995 c 355: See notes following RCW [19.94.015](#).

WAC 16-662-125

Enforcement actions for price verification inspections under NIST Handbook 130.

WSDA uses *NIST Handbook 130*, Examination Procedure For Price Verification, Section 11.2., Model Enforcement Levels. Overcharges will be used to determine price accuracy for enforcement actions under chapter [19.94](#) RCW.

WEST VIRGINIA

§47-1-7. Requirements for unit pricing.

The uniform unit pricing regulation as adopted by the national conference on weights and measures and published in national institute of standards and technology handbook 130, "Uniform Laws and Regulations" and supplements thereto and revisions thereof, shall apply to unit pricing in the state, except insofar as modified or rejected by legislative rule

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ATCP 92.06 Inspection procedures and equipment.(1) GENERAL. Inspectors shall inspect weights and measures according to ch. 98, Stats., this chapter, and chs. ATCP 90 and 91. An inspection, and the equipment used to make it, shall comply with all of the following that apply to that type of inspection:(a) The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), 2006 edition.

(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), 2005 edition.

(2) PRICE VERIFICATION SYSTEMS. Inspections of price verification systems shall comply with section 7 “test procedures” from the chapter titled “examination procedure for price verification,” national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), 2006 edition.

<http://www.legis.state.wi.us/statutes/Stat0098.pdf>

98.08 Price refunds; price information. (1) A person who uses an electronic scanner to record the price of a commodity or thing and who sells the commodity or thing at a price higher than the posted or advertised price of that commodity or thing at least shall refund to a person who purchases the commodity or thing the difference between the posted or advertised price of the commodity or thing and the price charged at the time of sale.(2) A person who sells a commodity or thing and who uses an electronic scanner to record the price of that commodity or thing shall display, in a conspicuous manner, a sign stating the requirements of sub. (1).

98.26 Prohibited acts; penalty; injunction. (1) A person who does any of the following acts shall forfeit not less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$1,000 for a subsequent offense. A person who intentionally does any of the following acts shall be fined not more than \$10,000 or imprisoned not more than 9 months or both:

(a) Hinders, obstructs or impersonates a sealer or inspector. (b) Uses or has in possession for use in buying or selling any commodity or service, or sells, any incorrect weight or measure or causes a weight or measure to be incorrect.

(c) Represents in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service. (d) Uses or disposes of any rejected weight or measure, or commodity, or removes there from any official tag, seal, stamp or mark, without written authority from a sealer or inspector.

(e) Violates s. 98.15 (1).

(f) Violates any other provision of this chapter or any rules promulgated under this chapter for which no specific penalty is prescribed.